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AN EVALUATION OF THE BOOKING
THROUGH ARRAIGNMENT PROCESS-
ING OF BROOKLYN ARRESTS IN
THE BROOKLYN CRIMINAL COURT:
A REPORT TO THE CRIMINAL
JUSTICE BUREAU OF THE NEW YORK
CITY POLICE DEPARTMENT

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SUMMARY OF CONTENTS

INTRODUCTION	Page 1
I. OUTLINE OF THE BOOKING THROUGH ARRAIGNMENT PROCESS IN BROOKLYN ARRESTS PRIOR TO AND AFTER THE INTRODUCTION OF THE PRE-ARRAIGNMENT PROCESSING FACILITY	6
II. METHODOLOGY	9
III. FINDINGS	12
IV. SUMMARY OF MAJOR FINDINGS AND CONCLUSIONS	69
V. RECOMMENDATIONS	78
APPENDICES	

TABLE OF CONTENTS

INTRODUCTION	Page 1
I. OUTLINE OF THE BOOKING THROUGH ARRAIGNMENT PROCESS IN BROOKLYN ARRESTS PRIOR TO AND AFTER THE INTRODUCTION OF THE PRE-ARRAIGNMENT PROCESSING FACILITY	6
II. METHODOLOGY	9
III. FINDINGS	12
A. Time Lapse Between Stationhouse Booking and Arrival at the Pre- Arraignment Facility	12
1. Nighttime Booking and Daytime Arrival: A Typical Day	13
2. The First Platoon: A Special Situation	17
B. The Environment in Which Prisoners Are Held Awaiting Arraignment	19
1. Arrival at the Basement Holding Area	19
2. The Holding Cages	20
a. Toilet Facilities	21
b. "Cage-Time"	22
c. Custodial Services	24
d. Segregation of Prisoners	25
e. Feeding of Prisoners	26
3. The Arraignment Detention Pens	27
C. Fingerprint Transmission	29
1. The Procedure	29
2. Introduction of Electronic Transmission Equipment and "Turn- Around Time"	30

D.	Complaint Room Operations	Page 33
1.	Complaint Room Procedures	33
2.	The Complaint Room in Operation	34
	a. The Time Factor	34
	b. The Complaint Preparation Process	39
E.	The Arraignment	45
1.	Conduct of the Arraignment Part	45
2.	Impact of the Pre-Arraignment People's Witness Excusal on the Arraignment Process	47
	a. Bail Conditions	48
	b. Case Dispositions at Arraignment	55
	c. "343" Cases	58
F.	Post-Arraignment Notifications	60
G.	Time Savings to the People's Witnesses Resultant From Pre-Arraignment Procedures	61
1.	Time Savings Per Case	61
2.	The Holdover Case: A Special Consideration	63
3.	Net Saving of Police Man-hours	64
4.	The Time Saving in Perspective	67
IV.	SUMMARY OF MAJOR FINDINGS AND CONCLUSIONS	69
A.	On the Time Lapse Between Stationhouse Booking and Arrival at the Pre-Arraignment Facility	69
B.	On the Conditions in Which Prisoners Are Held Awaiting Arraignment	70
C.	On Fingerprint Transmissions	71
D.	On the Operation of the Complaint Room	72
E.	On the Impact of Pre-Arraignment Processing on the Arraignment Proceeding	73
F.	On Post-Arraignment Notifications	75
G.	On the Time Savings to the People's Witnesses Resulting From Pre-Arraignment Processing	75
H.	Summation	76

V. RECOMMENDATIONS

Page 78

- A. Remedying the Conditions In Which Prisoners Are Held Awaiting Arraignment at the Brooklyn Criminal Court 78
- B. Evaluating the Over-Night Lodging-of-Prisoners Arrangement Presently Employed in Brooklyn Arrests 81
- C. Reviewing the Manner in Which the Present Pre-Arraignment Facility is Administered 81

APPENDICES

INTRODUCTION

In February 1971 a pre-arraignment processing facility was established in the borough of Brooklyn with the purpose of saving police and complainant court time by permitting the People's witnesses to swear to their complaints before the arraignment of the case and by then excusing them from appearance at the arraignment. Modeled after similar facilities established in the Bronx and Queens since 1969, the Brooklyn facility differs from these forebears in two important respects. First, the Brooklyn facility represents the first experiment in "pre-arraigning" cases which arise in and are subject to the post-arraignment jurisdiction of the borough in which the pre-arraignment facility is located.¹ Secondly, the Brooklyn facility "pre-arraigns"

1 The Bronx and Queens Facilities were established to complete certain of the pre-arraignment procedures, including swearing to the criminal complaint, within those boroughs in cases which -- because the Bronx and Queens branches of the Criminal Court have had no evening or weekend arraignment sessions--occur in a borough other than that in which the offense occurred.

Brooklyn arrests for the full daily arraignment court session: 16 hours each day including weekends.²

The Brooklyn pre-arraignment processing facility has been the subject of considerable controversy³ -- even before its introduction in February 1971. Arguments of considerable merit have been voiced on all sides of the issue, and "pre-arraignment processing" has remained one of the more widely debated of Criminal Court procedures in recent years.

After reviewing the many points raised in favor of and in opposition to a "full-time, same-borough pre-arraignment facility", the Appellate Division and the Criminal Court, joined by most of the agency participants

2 Because the Bronx and Queens facilities were designed specifically to address problems arising from the arraignment of cases in boroughs other than the borough of arrest, they have processed cases only during the times of day when the borough of arrest does not have its own arraignment court in session.

3 Much of the controversy has centered about the impact of the People's witness excusal on the arraignment bail decision and on the arraignment part's disposition rate and about the inherent fairness of an arraignment proceeding at which the witnesses against the defendant are not produced.

in the Brooklyn Criminal Court, agreed to the introduction in the Brooklyn branch of the extended pre-arraignment concept as proposed.⁴ The facility began its operations on February 8, 1971.

The present study was undertaken by the Vera Institute of Justice at the request of the Criminal Justice Bureau of the New York City Police Department. In response to that request, the study has been prepared to provide, through a short-term analysis, sufficient descriptive material, findings and suggestions to permit an early evaluation not only of the Brooklyn pre-arraignment processing facility but of the more general booking-through-arraignment procedures in that borough as well. It is important to note that the research, findings and recommendations are confined solely to pre-arraignment procedures in the Brooklyn Criminal Court and have limited applicability, if any at all, to those procedures in other borough branches of the Court.

Section I provides a brief description of the booking-through-arraignment procedures for Brooklyn arrests as they have existed before and after the introduction of the

4 The Legal Aid Society opposed the introduction of the procedure in a memorandum dated February 1, 1971 and on March 16, 1971 formally moved under Article 78, CPLR, to require the production of the People's witnesses at Brooklyn arraignments. At this writing the Article 78 action has not been decided.

pre-arraignment processing facility. The methodology employed in the study is reviewed in Section II. The study's findings are reported in detail in Section III and are summarized in Section IV. Finally, Section V contains the author's recommendations concerning the booking-through-arraignment procedures in the borough of Brooklyn.

The cooperation of judges and of personnel of the Criminal Court, the Kings County District Attorney's Office, the Legal Aid Society and the New York City Department of Correction is gratefully acknowledged; their insights were helpful both in interpretation of data and findings and in formulation of recommendations. Police Department commands cooperated with and assisted the research team in every possible way.

This study has been prepared for the Criminal Justice Bureau of the New York City Police Department, but its contents have not been reviewed or endorsed by any agency, and responsibility for the accuracy of its data and findings, and for the viewpoints and recommendations expressed herein, rests solely with the author and with the Vera Institute of Justice.

Data employed in the study have been limited

solely to those sources of information which are routinely available to a member of the general public making diligent inquiry or to which the research team was given access by the appropriate agencies for the expressed purpose of conducting the study.

All procedures which are described in this document are those that were in effect prior to and as of June 8, 1971.

James L. Lacy

I. OUTLINE OF THE BOOKING THROUGH ARRAIGNMENT PROCESS IN BROOKLYN ARRESTS PRIOR TO AND AFTER THE INTRODUCTION OF THE PRE-ARRAIGNMENT PROCESSING FACILITY.

The major steps in the processing of a Brooklyn arrest from the point of stationhouse booking through the Criminal Court arraignment both before and after the establishment of the pre-arraignment facility are:

- (1) transport of the prisoner⁵ from the stationhouse to the court's basement detention area;
- (2) R.O.R. interview of the prisoner in the basement holding area and verification of the information he supplies concerning his roots in the community;
- (3) in fingerprintable cases,⁶ transmission of the suspect's fingerprints to the Police Department's Bureau of Criminal Identification (BCI) in Manhattan;⁷
- (4) in fingerprintable cases, transmission from BCI

5 The terms "suspect", "prisoner" and "defendant" are used interchangeably in this document.

6 N.Y. Code Crim. Proc. § 552 (McKinney Supp. 1969)

7 When the booking occurs late at night, the fingerprints may be transmitted to BCI directly from the stationhouse, hours before the prisoner is transported to the court building.

to the court's basement detention area of
the prisoner's arrest record (yellow sheet);

- (5) in fingerprintable cases, photographing of
the prisoner in the basement detention area
upon receipt of the yellow sheet;
- (6) Assistant District Attorney interview of the
arresting officer and complainant and pre-
paration of the complaint in the court
building's complaint room;⁸
- (7) docketing of the complaint and accompanying
court records;
- (8) Legal Aid Society interview of the prisoner in
the arraignment part's detention area;
- (9) arraignment of the case.

Prior to the introduction of the pre-arraignment
facility, the arresting officer accompanied the prisoner
while the first five steps were completed, and the officer
and the complainant, if any, appeared at the arraignment of
the case and swore to the truthfulness of their complaint
at the arraignment proceeding. With the pre-arraignment

8 The Brooklyn District Attorney's Office assumed
responsibility for the preparation of Criminal Court
complaints in October 1970. Prior to that time, com-
plaints were prepared by court clerks.

processing procedure in effect: (1) the arresting officer is "cut loose" from his prisoner upon completion of the R.O.R. interview (step 2)⁹ and proceeds directly to the complaint room; (2) the complaint is drawn in the complaint room without waiting for the transmission of the defendant's yellow sheet; (3) the officer and complainant swear to their complaint in the complaint room and are then excused; (4) a court processing officer stands in the place of the People's witnesses at the arraignment and records the arraignment disposition or adjournment; and (5) the pre-arraignment processing facility subsequently notifies the People's witnesses of the date and court part of their next appearance.

Figures 1 and 2 illustrate the differences in the routes taken by the People's witnesses through the pre-arraignment stages before and after the introduction of the processing facility.

9 For purposes of identifying the prisoner in the absence of the arresting officer through the remaining steps, a snapshot is taken upon arrival at the court building and is attached to the records prepared for each prisoner.

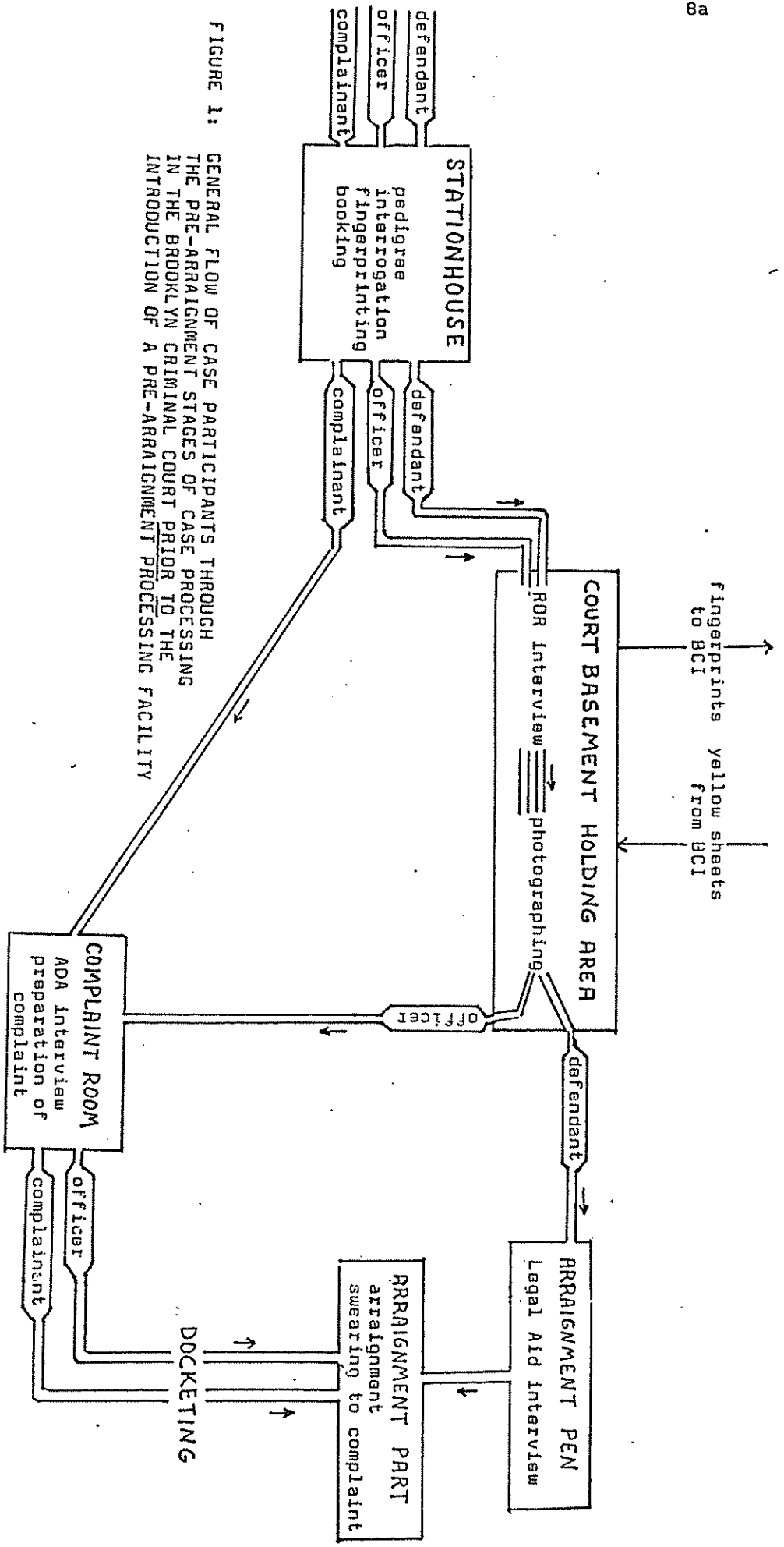


FIGURE 1: GENERAL FLOW OF CASE PARTICIPANTS THROUGH THE PRE-ARRAIGNMENT STAGES OF CASE PROCESSING IN THE BROOKLYN CRIMINAL COURT PRIOR TO THE INTRODUCTION OF A PRE-ARRAIGNMENT PROCESSING FACILITY

fingerprints yellow sheets
to BCI from BCI

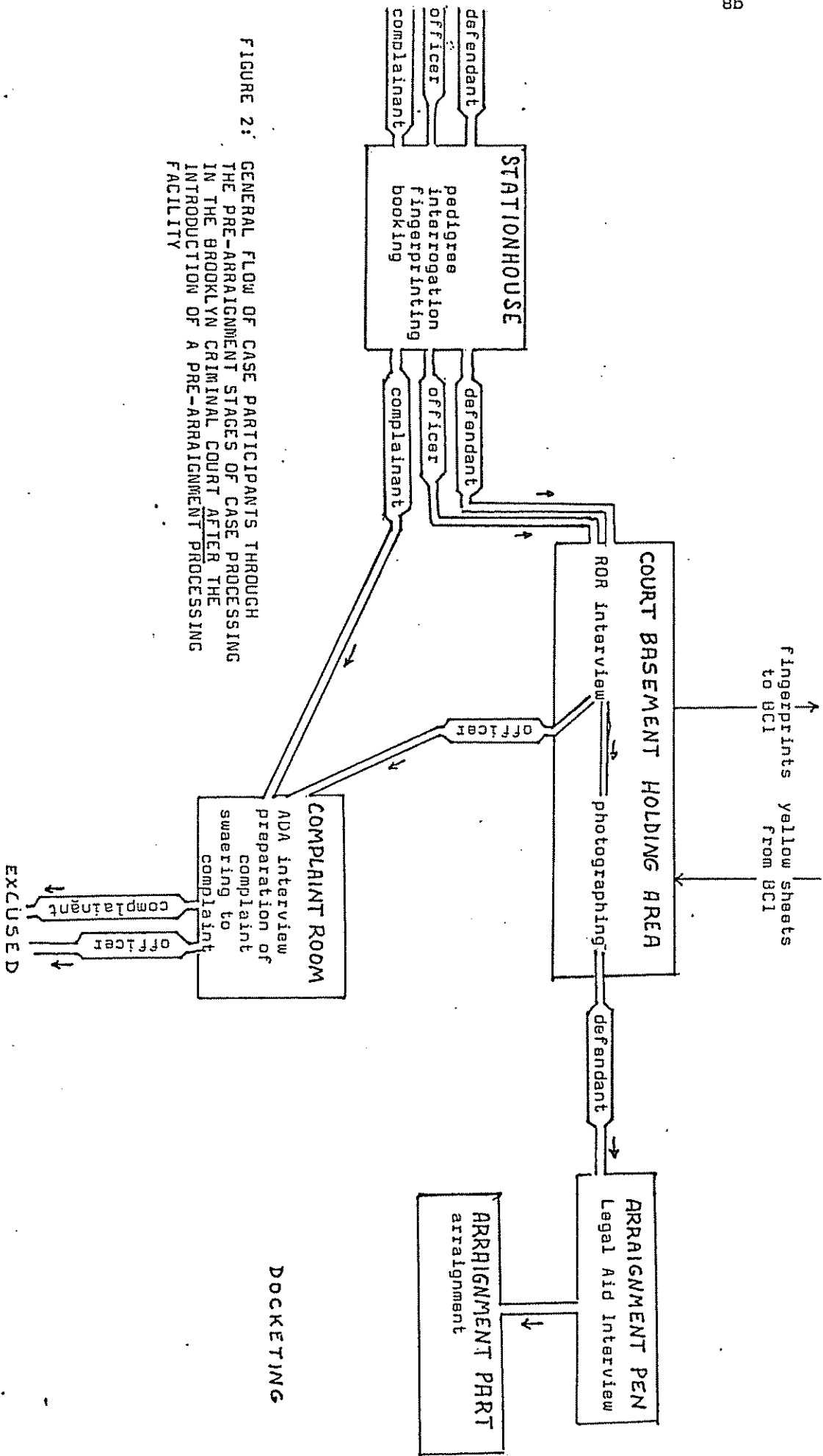


FIGURE 2: GENERAL FLOW OF CASE PARTICIPANTS THROUGH THE PRE-ARRAIGNMENT STAGES OF CASE PROCESSING IN THE BROOKLYN CRIMINAL COURT AFTER THE INTRODUCTION OF A PRE-ARRAIGNMENT PROCESSING FACILITY

II. METHODOLOGY

The study was designed to combine both records-research and on-site observation to develop a detailed description of the pre-arraignment and arraignment procedures.

The records employed in the study were:

- (1) the original of Police Department form Misc.

333:¹⁰ This form has captions for the following entries in each case: the time of arrest, the time of booking, the officer's tour of duty at the time of arrest, the time of arrival of the arresting officer and prisoner at the pre-arraignment facility, the time pre-arraignment processing is completed, the time the prisoner is produced in the arraignment part's feeding pen and the time the arraignment is completed. In addition it has captions for the following information: the defendant's age and sex, the identity of the civilian complainant/witness, if any, and a description of the drugs, weapons, contraband or other relevant property found in the prisoner's

10 A copy is reproduced, pp. A-1, A-2.

possession.

- (2) fingerprint transmission log: This log identifies, for cases in which fingerprints and yellow sheets are transmitted through the pre-arraignment facility,¹¹ the time of print-transmission and the time of yellow sheet return and whether the transmittals were done electronically or by messenger.¹²
- (3) complaint room sign-in book: This log records the time the arresting officer arrives at and leaves the complaint room.

A period of five days and evenings in mid-April were originally selected for a time sequence study of the steps involved in pre-arraignment processing. This universe consisted of a total of 499 cases pre-arraigned on the Monday, Tuesday, Wednesday, Saturday and Sunday of the week of April 12. Incomplete or questionable entries in some of the records' captions required the taking of an additional sample of 618 cases pre-arraigned during the 7-day period: Thursday, May 6 through Wednesday, May 12.¹³ Prior to this

11 Note 8 supra.

12 See p 29 et. seq. infra.

13 Some entries in the initial 5-day sample were complete enough to permit limited analysis, and these figures have been employed in some of the tabulations in this document.

second time-sequence data gathering, procedures for tightening control over record entries were established by the Police Department throughout the pre-arraignment facility.¹⁴

In addition to the foregoing records, completed arraignment calendars covering periods before and after the introduction of the pre-arraignment facility were analyzed and compared.¹⁵

The observation study was conducted in the basement detention area, the complaint room and the arraignment part. The arraignment part's detention pens and the sub-basement holding pens were inspected. A time-of-event study of complaint room operations was conducted in the daytime and evening of Wednesday, May 12, in the daytime of Saturday, May 22 and in the daytime of Wednesday, May 26. The arraignment part's activities were observed in the daytime session of Saturday, May 22 and of Wednesday, May 26 and on the evening of May 12. On May 12 the author spoke with prisoners released at the arraignment concerning their pre-arraignment detention experience.

14 A copy of the memorandum initiating these procedures is attached, Appendix B.

15 The completed arraignment calendars list, inter alia, the bail conditions and dispositions for each arraigned case.

III. FINDINGS

A. Time Lapse Between Stationhouse Booking and Arrival at the Pre-Arraignment Facility.

On the average weekday, roughly one-third of all prisoners pre-arraigned during the daytime session were arrested, processed and booked before midnight of the night before and spent a minimum of eight hours in a stationhouse cell before being transported to the court building. Of the 66 Brooklyn cases in which the prisoners arrived at the pre-arraignment basement area before 4 p.m. on May 6, 1971:¹⁶ 1 had been booked before 6 p.m. of the night before¹⁷, 5 were booked between 6 p.m. and 9 p.m. of the night before; 18 were booked between 9 p.m. and midnight; 16 were booked between midnight and 3 a.m.; 13 were booked between 3 a.m. and 6 a.m.; none were booked between 6 a.m. and 9 a.m.; 3 were booked between 9 a.m. and noon; and the remaining 10 were booked after noon of the day they were produced at pre-arraignment.

16 A total of 71 cases arrived at the pre-arraignment facility between 8 a.m. and 4 p.m. on May 6; in 5 of these the record entries were either incomplete or obviously inaccurate.

17 Since the booking does not generally take place until the investigative stage in the case has been completed, it is unclear why this prisoner was not produced at the evening arraignment session of May 5.

1. Nighttime Booking and Daytime Arrival:
A Typical Day

While the basement holding area begins receiving prisoners at 8:00 a.m., the prisoners do not necessarily arrive in the same order in which they were booked the night before.

Reviewing the booking and arrival times of cases arriving in the daytime session of Thursday, May 6th:

(1) of the 6 cases in which booking was completed by 9 p.m. on Wednesday night, the prisoners in only 3 cases had been transported to the court building by 9:00 a.m., and 2 did not arrive until 9:55 a.m.;

(2) in one-third of the 18 cases in which the booking was completed between 9 p.m. and midnight the prisoners were transported to the building after 9:30 a.m.;

(3) in one-third of the 17 cases in which the booking had been completed by 3 a.m. the prisoners had not arrived at the court building by 9:30 a.m., and

(4) of the total 54 cases booked between 3 p.m. Wednesday and 6 a.m. Thursday, in only 8 cases had the prisoners arrived at the basement holding area by 8:30 a.m. (table 1).

While the research team was not able to identify from available data the reasons for the delay in transporting to court prisoners who were booked the night before, discussions with Police Department personnel concerning overnight lodging and transportation procedures revealed two interrelated contributing factors.

a. Prisoners are most often booked and lodged in the stationhouse of the precinct area in which the offense occurs. Only if that stationhouse's

TABLE 1 : PRE-ARRAIGNMENT DAYTIME ARRIVAL TIMES IN TERMS OF BOOKING TIMES: THURSDAY, MAY 6, 1971

<u>Booking Time</u>	<u>No. of Cases</u>	<u>Before 8:30</u>	<u>ARRIVAL AT PRE-ARRAIGNMENT</u>					
			<u>8:31-9:00</u>	<u>9:01-9:30</u>	<u>9:31-10:00</u>	<u>10:01-11:00</u>	<u>11:01-12:00</u>	<u>after noon</u>
3 p.m.-6 p.m.	1	1	--	--	--	--	--	--
6 p.m.-9 p.m.	5	--	2	1	2	--	--	--
9 p.m.-12 a.m.	18	--	4	8	4	2	--	--
12 a.m.- 3 a.m.	17	1	4	6	5	1	--	--
3 a.m.- 6 a.m.	13	6	1	4	1	1	--	--
6 a.m.- 9 a.m.	0	--	--	--	--	--	--	--
9 a.m. - 12p.m.	3	--	--	--	--	--	2	1

cells are filled is the prisoner who is booked at night lodged in another stationhouse, and then generally in the stationhouse closest to the arrest location which reports a vacant cell. The result of this over-

night lodging arrangement is that prisoners are often scattered among the borough's 26 stationhouses. When transport vans are dispatched in the morning hours to gather the prisoners for court, they must move from stationhouse to stationhouse to complete a filled van before arriving at the court building to discharge their van load. There are no central locations for lodging prisoners overnight.

b. Compounding the problems attendant to dispatching vans to numerous locations in the borough is the fact that the arresting officer must be present at the stationhouse to accompany his prisoner to the court building. The problem arises when the arresting officer goes off-duty for 6 to 8 hours after the booking of his prisoner. This is most often the case when the officer made the arrest while assigned to a 4 p.m. to midnight duty tour or a 6 p.m. to 2 a.m. tour.¹⁸

18 In over half of the 390 cases in which the arrest was made between 4 p.m. and 4 a.m. during the period May 6 to May 12 the arresting officer was working one of these two tours at the time of arrest. Of the 390 nighttime arrests, the officer was assigned to a 4 p.m. to midnight tour in 162 cases (42%); a 6 p.m. to 2 a.m. tour in 63 cases (16%); a 5 p.m. to 8 a.m. tour in 28 cases; a mid-night to 8 a.m. tour in 66 cases; and to irregular night tours in 38 cases. The reason for the officer going off-duty in these cases is to provide him 8 hours between tours of duty.

While a transport van may have made some prisoner pick-ups at his stationhouse, it may have to return or another van may have to be dispatched for the prisoner whose arresting officer was not returned to duty by the time of the initial pick-up at that location.

2. The First Platoon: A Special Situation

Unlike officers assigned to the 4 p.m. to midnight or the 6 p.m. to 2 a.m. duty tours, the officer assigned to the first platoon (midnight to 8 a.m. tour) does not take time off-duty between the booking and arrival at court. Instead, he continues on duty beyond 8 a.m. through the completion of the pre-arraignment of his case. From 8:01 a.m. until he is excused in the complaint room he is compensated at an overtime salary rate of time-and-one-half.

During the period May 6 through May 12, 66 (11%) of the total 618 arrests processed through pre-arraignment were made by officers assigned to the first platoon at the time of arrest. In 51 of the 66 the booking of the prisoner was completed by 7 a.m. In only 5 (10%) of the 51 cases did the officer arrive at the court building by 8:30 a.m. and in 15 (29%) he did not arrive until after 9:30 a.m. (table 2).

TABLE 2:ARRIVAL TIMES OF FIRST PLATOON ARRESTS IN WHICH
BOOKING WAS COMPLETED BY 7 A.M.: MAY 6 - MAY 12, 1971

<u>Arrival Time</u>	<u># of Cases</u>
8:00 - 8:30 a.m.	5
8:31 - 9:00 a.m.	16
9:01 - 9:30 a.m.	15
9:31 - 10:00 a.m.	8
after 10:00 a.m.	7
TOTAL	51

There is no routine procedure for expediting the transport to court of prisoners in first platoon arrests even though delay in these cases not only increases the time the defendant is incarcerated awaiting the arraignment but also increases the time for which the arresting officer is compensated at an overtime-rate. Indeed, there does not appear to be any special attention at the precinct level given to ensuring that officers making arrests during the first platoon do not unnecessarily tarry in the preparation of their prisoners for transport to court.¹⁹

19 This is not to suggest that the research team found situations of unnecessary delay attributable to the overtime factor. Available data were not sufficient to identify whether this in fact occurs. The apparent lack of procedural control to ensure that it will not occur is the relevant factor here.

B. The Environment in Which Prisoners Are Held

Awaiting Arraignment

1. Arrival at the Basement Holding Area.

Upon arrival at the court building, the arresting officer logs-in his prisoner in the basement detention area²⁰ and waits for him while he is interviewed by the R.O.R. division of the Office of Probation. The interview is conducted at a semi-private table in the secured area. The R.O.R. interview itself was found to rarely exceed more than 10 minutes.²¹

When the R.O.R. interview is completed, the officer escorts the prisoner to an adjoining room where a snapshot of the prisoner is taken. On the snapshot each prisoner is identified as either a fingerprintable case²² or as a non-printable "court case." The snapshot is attached to

20 Until the prisoner is ultimately lodged in the arraignment part's pens, he remains in the custody of the Police Department.

21 The R.O.R. staff assigned to the basement area appears to be at sufficient strength at all times to handle the case volume. No significant delays were found at this stage of the processing.

22 Note 7 supra.

the original of the pre-arraignment form,²³ which is employed for all subsequent identification of the prisoner with his case. The prisoner is lodged in one of two adjoining holding cages and the officer departs with a duplicate of the pre-arraignment form to the complaint room.

2. The Holding Cages.

The holding cages were designed for temporary detention of prisoners while awaiting photographing. For the past year-and-one half, however, all newly arrested prisoners have been lodged in the cages from the time of arrival at the court building until their cases are fully processed and they are moved to the arraignment part's detention pen. The introduction of pre-arraignment processing in February 1971 did not alter this detention arrangement.

The adjoining cages, one for males and one for females, do not have bars, and are constructed of a heavy wire material in a crossed-pattern similar to that employed in hurricane fences. Each cage has a door made of the same material. The separation between the male and female cages is also constructed of this wire material, permitting full view of each cage from the other.

The female cage has benches and chairs to seat approximately 15 adults comfortably. The male cage has a seating capacity for approximately 30 adults. While the female cage rarely has more prisoners than seats,²⁴ the male cage at busy hours, particularly between 11 a.m. and 2 p.m., holds as many as 50 males at a single time, forcing some of the prisoners to stand during their period of detention in the cage.

a. Toilet Facilities.

Neither of the cages has a toilet. In addition, there are no male or female toilets in the entire secured area on the basement level. If a male prisoner requests a "toilet trip" he must be escorted to a secured toilet on the sub-basement level. A female prisoner must be escorted to the first floor arraignment pen's toilet. The female is routinely escorted by a male officer; there is no female custodian or guard assigned to the basement holding area.

Because of the time-consumption and manpower involved, and owing in part to security considerations, "toilet-trips" for both male and female prisoners have been discouraged. This policy of discouraging the trips has apparently been in effect since the cages first became used for full-time detention one-and-one-half years ago; it has resulted in considerable use of the floor and the "butt-can" (ashtray) for

24 On the average, 12 female prisoners are processed through the facility each day.

resolution of certain of the male prisoners' requirements.

b. "Cage-Time"

The research team's analysis of the period May 6 through May 12 revealed that the average period of cage detention is approximately 3 hours,²⁵ although a few instances of "cage-time" exceeding 8 hours were identified (table 3).

25

The cage-time average is a conservative figure. It was computed as the difference between the arrival of the prisoner at the basement holding area and his later arrival at the arraignment part's feeding pen. When, however, there was no record of the feeding pen arrival time, the study group employed the time of photographing to compute the duration of cage-time. Since prisoners are not necessarily transported to the arraignment pen immediately after photographing, the average cage time reported in this document represents at least the minimum period of cage detention.

TABLE 3 : AVERAGE HOLDING CAGE DETENTION TIME FOR
PRE-ARRAIGNMENT CASES (EXCLUDING HOLDOVER
CASES): MAY 6, 1971 THROUGH MAY 12, 1971

<u>Date</u>	<u>Total Defendants</u>	<u>Total Reliable Entries</u>	<u>Average Cage Time ≠</u>
Th 5/6 am	94	93	6 hrs 23 min ⊕
pm	70	35	1 08
Fr 5/7 am	66	60	3 21 *
pm	51	38	2 49
Sa 5/8 am	68	60	2 51 **
pm	24	16	2 57
Su 5/9 am	75	60	2 18 ***
	14	13	3 20
Mo 5/10 am	59	46	2 51
pm	30	21	2 24
Tu 5/11 am	68	64	3 11
pm	61	39	3 21
We 5/12 am	61	58	3 20
pm	56	46	3 04
	<u>797</u>	<u>649</u>	<u>3 hrs 28 min</u>

≠ Computed on basis of total reliable entries

* longest non-holdover cage time, 8 hours, 47 minutes

** longest non-holdover cage time, 9 hours, 23 minutes

*** longest non-holdover cage time, 10 hours, 15 minutes

⊕ For printable and non-printable cases both, the average cage-time on this day exceeded 5 hours. Printable case cage-time averaged 5 hours, 32 minutes; non-printable cage-time, 5 hours, 20 minutes.

c. Custodial Services.

In addition to the lack of toilet facilities, the holding cages have not been, until recently,²⁶ routinely cleaned. When the cages were constructed for photo-detention, no provision for routine custodial attention was apparently made. Because of an apparent lack of agency agreement as to which agency had jurisdiction of the cage area--the Police Department, the Department of Correction or the Criminal Court--routine clean-up for the past one-and-one-half years has been irregularly provided. No thorough hosing or wash-down of the area has been performed in anyone's memory.

Emergency clean-up during the periods when the cages contain prisoners is inadequate. Following vomiting by a prisoner,²⁷ ammonia is generally splashed on the affected

26 During the course of the study, provisions were made for nightly sweepings by prison labor supplied by the Brooklyn House of Detention.

27 While the research team did not encounter situations of nausea in its observations of the cage area, the author was advised by police personnel of their occurrence and of the procedures employed to handle the situation.

area.²⁸ With approximately 18% of all prisoners being either identified addicts or being detained on a drug-related charge,²⁹ the possibility of eruptive sickness by a detained prisoner is high.

The Police Department's present inability to more thoroughly clean the cage area immediately after a prisoner's sickness is due to the absence of an additional secured area close-by in which to temporarily relocate the prisoners during the clean-up.³⁰

d. Segregation of Prisoners.

With only one cage for each sex, segregation of prisoners of the same sex can be done

28 The basement holding area has no direct ventilation, but the air vent-blower system functions adequately and the author was advised by police personnel that the ammonia fumes are dispersed without causing too much discomfort to the police officers and prisoners in the area.

29 An average of 21 prisoners each day fall into these categories.

30 The security problems attached to a massive prisoner relocation to anything but an adjoining holding area, of which there is none at present, would be prohibitive. In fact, the existing cages, lacking bars, present a considerable security problem in themselves, and it is unlikely that they could withstand a large prisoner rush on the cage door if attempted.

only when absolutely necessary.³¹ Consequently, homosexuals and youths under 19³² are lodged in the same cage with the rest of the prisoners, and all prisoners are lodged together without regard to the charge for which they were arrested.³³

e. Feeding of Prisoners.

Prisoners are fed while in the cage area once each day, but only if they are in the cage at the feeding time, generally at 6:00 p.m. A "head count" of the caged prisoners is made and the Brooklyn House of Detention provides the equivalent number of sandwiches. The sandwiches usually consist of two slices of bread and one slice of bologna; no liquid is generally served.

-
- 31 Segregation becomes urgent when co-defendants or cross-complainants, lodged in the one cage, take out their hostilities on each other. If the violence cannot be quickly brought under control, one of the belligerents is moved to the arraignment pen.
- 32 The male youth aged 19 or under constitutes roughly 24 % of the male cage population each day, an average of 28 youthful prisoners per day.
- 33 It must be noted that segregation of detained prisoners in terms of the seriousness of the charges against them is not done in any of the City's court detention pens. Segregation of youths under the age of 21 from other prisoners is required, however, in all detention facilities under the control of the Department of Correction.

All of the conditions described above have been in existence prior to the introduction of pre-arraignment processing, and began with the establishment of the Police Department's photographic unit within the court building. The introduction of pre-arraignment processing in February of this year has had no discernible impact, beneficial or adverse, on the conditions to which the prisoners have been subjected.

Since the beginning of the present study in early April, a number of steps have been taken by the Police Department and the Department of Correction to ameliorate the conditions in which the prisoners are held.³⁴ At this writing, however, none of the major planned improvements has been implemented.

3. The Arraignment Detention Pens.

Transport of the prisoner to the arraignment part's detention pens on the first floor -- a move which is realized only when his case is fully processed and he is ready for a Legal Aid interview and arraignment -- improves his condition only slightly. The arraignment

34 See pp.78-80 *infra*.

pens have toilet facilities--a porcelain bowl sans seat and often, according to some prisoners, sans toilet paper-- but have a more limited seating capacity and poorer lighting than the basement cages. Most prisoners are required to stand while held at this stage in their case's processing. In addition, the ventilation of this area is extremely poor; the area is exceptionally hot and humid compared with the outside temperature; and an echoing effect caused by the high ceilings and bare walls results in a jarring noise level. The average time spent in these pens before the arraignment during the daytime, excluding cases held over from the daytime arraignment session to the evening session, is one hour, 47 minutes.

POLICE DEPARTMENT

Manhattan.....
 Brooklyn All.....
 Bronx.....
 Queens.....
 Richmond.....

CITY OF NEW YORK Sheet # 1 of 4

June 3, 1971 19

The Communications Division Shall Transmit by

TELEPHONE TYPewriter	<input checked="" type="checkbox"/>
TELEPHONE	<input type="checkbox"/>
RADIO	<input type="checkbox"/>

The Following Order:

TO: Commands Concerned:

The following members of the force shall report to the Brooklyn Criminal Court on date specified in connection with arrests processed at the Brooklyn pre-arraignment facility. Adjourn dates marked ACP, excuse officer from appearing, unless otherwise notified by Appearance Control Project as per T.O.P. 31-1 C.S. :

COMMAND	OFFICER	DOCKET#	DEFENDANT	"B" NUMBER	ADJ. DATE	PART
60 Pct	Koelbel	A13390	Gallo R.	861657	6/8/71	3
"	"	A13391	Gallo J.	861656	"	"
61 Sqd	Sheerin	A13414	Fazzone E.	790756	6/4/71	AP2
61 Pct	Tuzzio	B13925	Farace P.	-	ACP	1B2
63 Pct	Barbakoff	B13997	Gonzalez R.	829895	6/8/71	AP2
67 Sqd	Jacobsen	B13984	Puzo P.	-	ACP	1B2
68 Pct	Bennett	A13427	Loud E.	586567	Elmhurst Hosp.	-
69 Sqd	Cole	B13987	Franklin D.	861659	6/7/71	3
"	LeBlanc	A13394	Cunningham D.	861654	"	"
69 Pct	McCourt	A13411	Cruz J.	861698	6/8/71	"
70 Sqd	Jameson	A13418	Fox W.	790165	6/4/71	AP2
71 Sqd	Crabb	A13121	Salas V.	861684	6/7/71	3
"	"	A13122	Marcial L.	861689	"	"
71 Pct	LaMirata	A13426	Jones R.	598221	"	AP2
"	Wilton	A13425	Steadley E.	599227	"	"
"	Todd	A13412	Ruiz O.	861686	6/8/71	"
"	Canestro	-	Lawrence P.	-	A/C Exc.	-
75 Sqd	Glover	A13407	Martinez R.	861671	6/8/71	AP2
"	"	A13408	Torres E.	861681	"	"
78 Sqd	McCarthy	A13397	Ayala C.	738766	6/10/71	AP2
79 Sqd	Anderson	A12886	German N.	740343	6/7/71	AP3
"	Squires	B13994	Dorrell G.	-	ACP	1B2
80 Sqd	Rose	A11657	Feuge W.	644145	6/8/71	AP2
"	Donelan	A13405	Castro G.	372000	Dismissed	-
"	"	A13406	Antoshka G.	-	"	-
81 Sqd	Bleuze	A13420	Varner D.	861697	6/4/71	AP2
81 Pct	Brazius	A13395	Mercado J.	812912	"	"
84 Sqd	Gosselin	B14002	McColley J.	-	ACP	1B2
84 Pct	Funcheon	B13991	Feliciano I.	-	"	"
88 Sqd	Stallone	A13396	Jones J.	685925	6/4/71	AP2

SIGNED _____

FORTHWITH

TITLE _____

Received at Communications Division by Placido J. Goff (NAME) _____ (TITLE) 6/3/71 (DATE) 0300 (TIME)

Transmitted from Communications Division by _____ (NAME) _____ (TITLE) _____ (DATE) _____ (TIME)

C. Fingerprint Transmission

1. The Procedure

Under the present Code of Criminal Procedure, a defendant in New York City charged with a felony or one of a list of misdemeanor and violation offenses³⁵ may not be admitted to bail until his fingerprints have been taken and his prior arrest record, if any, has been produced.³⁶

Prisoners in fingerprintable cases are fingerprinted before booking. Prior to the arraignment, the prints must be forwarded to BCI in Manhattan. If the print search reveals a prior record (yellow sheet), it is up-dated to include the present arrest and is forwarded to the court location in which the defendant is arraigned. If no prior record exists, the present arrest becomes the opening entry on the defendant's yellow sheet.

A "B" number identifying the defendant's fingerprints is assigned at the time of his first printable arrest. Upon receipt of the yellow sheet the defendant is photographed with his "B" number; this

35 N.Y. Code Crim. Proc. § 552 (4) (McKinney Supp. 1969)

36 N.Y. Code Crim. Proc. § 552 - a (McKinney Supp. 1969). The new Criminal Procedure Law, CPL § 160.10, effective September 1, 1971, broadens the fingerprinting requirement to include all Penal Law offenses. The requirement also covers non-Penal Law misdemeanor offenses if certain listed conditions are present.

photograph is filed in the Police Department's mug-shot files. The defendant cannot be photographed without a "B" number.

Additionally, while the R.O.R. interview and verification begin with arrival of the defendant at the court building, the R.O.R. recommendation cannot be made until the yellow sheet has been reviewed.

2. Introduction of Electronic Transmission Equipment and "Turn-Around Time"

While there is a photo-unit in the basement holding area of the Brooklyn Criminal Court, all prints must first be forwarded to BCI for the yellow sheet. Prior to April 1971 transmission of prints and return of yellow sheets was accomplished by Police Department messenger, with a travel time in each direction estimated at 20 minutes.

On April 6, 1971 a prototype Video Print Transmitter, developed by the Singer Corporation's General Precision Laboratory, and a Datafax-900 data transmitter were installed in the Brooklyn basement holding area with companion reception and transmission equipment installed at BCI in Manhattan.

The Video Print Transmitter transmits, in 25 segments, the fingerprint card by closed-circuit television to a BCI receiver which produces a hard-copy reproduction of the card. Transmission time is less than 90 seconds. When the yellow sheet has been prepared at BCI, it is transmitted

to the Brooklyn basement area through the Datafax equipment, producing a hard copy reproduction of the yellow sheet within 90 seconds of the transmission from BCI. The single hard copy is then reproduced in the basement area on copier equipment to provide the required number of yellow sheets for the defendant's case.

The electronic equipment is designed to reduce the transmission time from 40 minutes to 2 minutes per case. Time consumed at BCI in searching the fingerprints is unaffected by the transmission time.

The transmission equipment is employed only for Brooklyn fingerprints routinely transmitted from the basement holding area.³⁷ During the 5 days in April analyzed by the research team,³⁸ 521 (86%) of the 605 defendants processed through the pre-arraignment facility had printable cases. In 332 (64%) of the printable cases the fingerprints were transmitted through the pre-arraignment facility;³⁹ in the remainder the prints had been sent to BCI directly from the stationhouse.⁴⁰

37 Note 8 supra.

38 Page 10 supra.

39 The pre-arraignment facility's print transmission volume averaged in the 5 days to 31 prints in the day session and 36 in the evening.

40 Note 8 supra

While the transmission equipment is considered to be undergoing a "shakedown" period, and while malfunctions were anticipated, equipment breakdown is exceptionally frequent. Of the 332 round-trip print and yellow sheet transmissions made by the pre-arraignment facility in 5 days in April, equipment malfunction required use of a messenger at least one way in lieu of the equipment in 234 (70%).

Given the frequency of equipment malfunction, whether the prints were transmitted by electronic equipment or by messenger the turn-around time -- i.e., the time elapsed between transmission of the finger-prints to BCI and the arrival of the yellow-sheet -- averaged to 3 hours, 02 minutes per case.

D. Complaint Room Operations

1. Complaint Room Procedures

The arresting officer signs-in at a police desk in the complaint room on the second floor of the court building and receives a complaint room number reflecting the order in which the officers will be called for complaint preparation. The officer is directed by the police desk to a nearby table to complete a series of forms and records.

Civilian complainants, arriving independently of the officers, are not signed-in, and are simply advised to take seats until the officers involved in their cases arrive.

When their complaint room number is called, the officer and complainant join an Assistant District Attorney in a cubicle; the case is discussed and a complaint is drawn, dictated by the Assistant District Attorney to a typist.

The officer and complainant are directed back to the police desk, where they sign and swear to their complaint before a police sergeant. The officer signs-out at the desk and he and the complainant are excused from the further processing of the case. This excusal is the major element of the pre-arraignment processing procedure.

If the case is a non-fingerprintable one, the District Attorney's and the court copies of the complaint and accompanying papers are sorted by a "bucket girl" and prepared for docketing

in the adjoining docket room. If the case involves a fingerprintable charge, the papers are held awaiting transmission from the basement holding area of the yellow sheet and R.O.R. report. Upon arrival of these records the papers are sorted and transmitted by police personnel to the docket room. 40a

2. The Complaint Room in Operation

a. The Time Factor

The highest percentage of the complaint room's case volume arrives there between 9:30 and 11:00 a.m. and between 7:00 and 10:00 p.m. (table 4). On weekdays an average of

TABLE 4: ARRIVAL TIME OF POLICE OFFICERS IN THE COMPLAINT ROOM DURING THE PERIOD MAY 6 - MAY 12, 1971*

<u>Time of Arrival</u>	<u>Weekday</u>		<u>Weekend</u>	
	<u>Total</u>	<u>% of Vol.</u>	<u>Total</u>	<u>% of Vol.</u>
8:00 am - 9:29 am	43	10%	29	21%
9:30 am - 10:59 am	113	27%	59	41%
11:00 am - 12:59 pm	33	8%	4	3%
1:00 pm - 3:59 pm	45	11%	13	9%
4:00 pm - 6:59 pm	66	16%	12	8%
7:00 pm - 9:59 pm	109	26%	23	16%
10:00 pm - 11:00 pm	<u>9</u>	<u>2%</u>	<u>1</u>	<u>1%</u>
TOTAL	418		141	

*Computed on the basis of 559 reliable entries of 618 total entries

40a

Either yellow sheets are not brought to the complaint room immediately upon receipt from BCI and photographing or the papers are not sorted promptly and sent for docketing. The time difference between photographing of the defendant and docketing of the case averaged 82 minutes per case.

only 9 officers per day have signed-in at the complaint room by 9:30 a.m.⁴¹

The amount of time spent by the arresting officer in the complaint room differs from day-to-day and among the times of day the complaint room is in operation. The research team found that, generally, the police time consumed in complaint room processing was highest at the peak arrival periods and lowest when the arrival volume was low (table 5). A notable difference in elapsed complaint room time occurred on different days having similar arrival volumes, however. In table 5 , for example, while Friday's and Monday's arrival volumes were similar, officers were spending at peak arrival periods twice as much time in the complaint room on Friday than on Monday. The same holds true for the two heavy volume days, Thursday and Tuesday.

41 The difference between the arrival time at the basement holding area and the arrival of the officer at the complaint room averages to 34 minutes per case. The study group was unable to identify the reason for this delay. As noted earlier, note 21 supra and accompanying text, the R.O.R. interview in the basement area was not found to be a source of delay, and rarely consumed more than 10 minutes of the basement processing time.

TABLE 5 : TIME SPENT BY ARRESTING OFFICERS AT THE COMPLAINT ROOM STAGE OF PROCESSING
 IN TERMS OF THE TIMES OF DAY THE OFFICERS ARRIVED AT THE COMPLAINT ROOM:
 MAY 6, 7, 10, 11 COMPARED

Time of Arrival	Thursday		Tuesday		Friday		Monday	
	Arrivals.	Av. Compl. Time	Arrivals.	Av. Compl. Time	Arrivals.	Av. Compl. Time	Arrivals.	Av. Compl. Time
8 - 9:29 am	8	1 h 24 m	11	1 h 5 m	7	1 h 31 m	8	51 m
9:30-10:59 am	38	4 h 12 m	25	2 h 25 m	15	3 h 15 m	16	1 h 39 m
11-12:59 pm	2	4 h 39 m	9	2 h. 10 m	5	3 h 39 m	10	55 m
1 - 3:59 pm	10	3 h 34 m	10	40 m	6	2 h 11 m	9	34 m
4 - 6:59 pm	14	1 h 26 m	15	45 m	14	1 h 6 m	12	4 m
7 - 9:59 pm	30	1 h 2 m	26	41 m	13	33 m	15	30 m
10 - 12 pm	0	--	3	35 m	4	32 m	0	--
TOTAL	102		99		64		70	

In terms of the manner in which time-savings to the People's witnesses resultant from their pre-arraignment excusal from the arraignment are computed in this study,⁴² delay at the complaint room stage of the process does not have a notable impact on the time-savings to witnesses. That is, regardless of how long on a given day the officer and complainant spend awaiting complaint preparation, the average elapsed time between completion of this stage and the arraignment of the case (the time saving attributable to pre-arraignment processing)⁴³ remains constant.

Delay at the complaint room stage does, however, bear a direct relationship to the amount of time the People's witnesses are engaged in the pre-arraignment process, and thus to the straight-time and overtime expenses incurred by police officers in processing arrests.

42 pg. 62-64 infra.

43 For example, on Thursday, May 6, the complaint room stage in the daytime session consumed an average of 4 hours; the time between its completion and the arraignment averaged 3 hours, 14 minutes. On Tuesday, May 11th, the complaint room stage consumed an average of about 2 hours per case; the time elapsed between its completion and the arraignment averaged 3 hours, 31 minutes. Compare table 5, p. 36 with table 10, p. 62a.

Additionally, delay at the complaint room stage delays the time of arraignment, and thus has a direct relationship to the amount of time the prisoner spends in pre-arraignment detention.^{43a}

43a On Thursday, May 6, when complaint preparation time was the longest of the days studied, the time spent by the prisoner in holding cage detention was also the longest of the days studied. On Monday, May 11, when complaint preparation time was short, prisoner detention time was also relatively short. Compare tables 3 and 5.

b. The Complaint Preparation Process

In March, the complaint room at the Brooklyn Criminal Court was renovated, and 5 fully-partitioned cubicles were installed for ADA interviews and complaint preparation. While an improvement over the previous physical lay-out (wherein ADAs conducted their interviews from behind a long counter), the cubicle arrangement has caused a number of problems. By decentralizing complaint preparation among separate cubicles, with an ADA and complaint typist assigned to each cubicle, each complaint must be fully processed and typed before the next complaint can be prepared. Unlike the complaint preparation procedures of other boroughs, this arrangement ties down the typist for periods when no typing is possible (e.g., during the interview of the witnesses) and the ADA when only perfunctory typing (e.g., typing of the complaint back) is performed.⁴⁴ The result is an under-utilization of both ADA and complaint-typist resources.⁴⁵

44 In the other boroughs, the ADA generally moves between a number of typists, thereby permitting him to prepare more than one complaint at a time.

45 The complaint preparation time per case averaged to slightly less than 12 minutes. Since only one complaint is prepared by each ADA and typist at a time, a considerable investment of manpower is required by the cubicle-assignment scheme to process the complaint volume.

Additionally, the cubicle-arrangement makes it difficult for the police sergeant in the complaint room to keep the flow of cases to the ADAs steady. While each cubicle has a red light by which the ADA is to signal that he is ready for the next case, the research team found the lights rarely used, and found that it was difficult for the sergeant to determine when a given cubicle was ready for assignment of the next case.^{45a}

45a The cubicle arrangement also leads to uneven distribution of workload among the ADA-typist teams, see note 48 infra and accompanying text. The research team found a number of situations wherein the ADA and typist in a given cubicle remained idle without signaling while their colleagues in the other cubicles processed the caseload.

Supervision over police officers awaiting complaint preparation could be improved in one important respect. When an officer who has signed-in does not respond to his name when called for preparation of his complaint, the next signed-in case is called, and the research team found few occasions in which the absent officer was later questioned by the complaint room superior officer concerning why he was absent at the earlier call.⁴⁶

The staffing of the complaint room by ADAs and complaint typists was found to be at some times excessive and at other times insufficient.

46 The absent officer eventually has his case called and his complaint prepared, but his absence at the first call not only increases the time he spends in the building; it increases the time the prisoner spends awaiting arraignment. The author and a sergeant assigned to the Planning Division tracked down in one morning the reasons for 8 absences. While in 5 of the 8 a valid explanation was obtained (e.g., the officer departed to call or locate in the building an absent civilian complainant), the remaining 3 could not be accounted for by the officers assigned to the complaint room within an hour after the absence.

On Wednesday evening, May 12, for example, 3 ADAs were assigned to complaint preparation: 2 assigned from 6 p.m. to 11 p.m.; 1 assigned from 5 p.m. to 10 p.m.

ADA #1 arrived at 5:25 p.m. and processed no complaints after 9:25 p.m. ADA #2 arrived at 6:00 p.m. and processed no complaints after 10:35 p.m. ADA #3 arrived at 6:15 p.m., began his first complaint at 6:26 p.m. and processed no complaints after 10:25 p.m.⁴⁸ The third ADA did not appear to be heavily occupied. Of the 4 hours, 15 minutes he was available for complaint processing, he was idle for a total of 2 hours, 3 minutes.

48 Considerable periods of inactivity between preparation of complaints occurred. ADA #1 was inactive for a total of 84 minutes between 5:25 and 9:25 p.m.; ADA #2 was inactive for 88 minutes between 6:00 and 10:35 p.m.; ADA #3 was inactive for a total of 123 minutes between 6:15 p.m. and 10:25 p.m.

On Saturday, May 22, only 2 ADAs were present during the daytime session.⁴⁹ Both arrived at 9:00 a.m., but one of the 3 typists did not arrive until 9:30 a.m. and one did not arrive until 11:00 a.m. While by 4:10 p.m. the two ADAs had processed a total of 57 complaints, 13 cases had to be left for the evening session,⁵⁰ and considerable delays had resulted.⁵¹

49 A third ADA had called in sick; he was not replaced.

50 Between 4:10 p.m., when the 2 ADAs assigned to the day session left, and 6:00 p.m., no ADAs or typists were present: see note 52 infra.

51 One officer who arrived at 9:30 a.m. was not until 2:30 p.m. Another, who had arrived at 11:00 a.m., was still waiting at 4:10 p.m. when the day-time session ended.

On a number of occasions the research team members found a sufficient number of ADAs present but an insufficient number of typists and vice versa. On May 6, 2 ADAs were present at 6 p.m. but only one typist was available, while on May 19, 2 typists were present between 6:00 and 6:30 p.m. but no ADA was available.⁵²

52 It should be noted that the complaint room is supposed to be manned continually from 8:30 a.m. through 11 p.m. The period between 4 p.m. and 6 p.m. is supposed to be staffed by a skeleton ADA/typist crew consisting of not fewer than one ADA/typist team.

E. The Arraignment

1. Conduct of the Arraignment Part

While the arraignment volume of the Brooklyn Criminal Court is heavy,⁵³ the research team found large gaps in the court day when no activity took place before the bench. The causes of these periods of inactivity were difficult to identify in most instances.

On Saturday, May 22nd, the arraignment judge was present on the bench for a total of 3 hours and 3 minutes. While the courtroom was opened to the public at 9:30 a.m., and while court personnel, the Assistant District Attorney, the Legal Aid attorneys and the court stenographer were present in the courtroom by 10:15 a.m., the arraighning judge did not assume the bench until 11:07 a.m. Most of the 21 holdover cases from the evening before were reported as ready for arraignment by 10:00 a.m.

Court recessed for lunch at 1:05 p.m.; at 2:30 p.m. everyone was present in the courtroom except the judge; at 2:50 p.m. the judge assumed the bench and the afternoon session commenced. During the morning session one 25-minute and one 15-minute recess were called. No reason was given for either recess.

53 The weekday daytime arraignment session arraigns between 70 and 100 Brooklyn arrests daily;

The part concluded its daytime session at 4:35 p.m. A total of 68 cases were arraigned during the day.⁵⁴ The average time devoted to the arraignment of each case was 2.3 minutes in the morning session and 3.1 minutes in the afternoon session.

On Wednesday, May 26th, the arraignment judge was present on the bench for a total of 178 minutes, of which 147 minutes were spent in actually arraigning cases. The judge assumed the bench at 10:35 a.m. There were 29 hold-over cases from the previous evening. One 20-minute recess and one 5-minute recess were called in the morning session for "preparation of further matters." A luncheon recess was called at 12:54 p.m.; the judge resumed the bench for the afternoon session at 2:33 p.m. At 4:30 p.m. the daytime session was adjourned. The average arraignment for the day consumed 2 minutes; 83 cases were arraigned.

For most of the periods of courtroom inactivity it was not possible to identify whether they resulted from lack of fully-processed cases at the time of the inactivity or from other reasons. Noteworthy, however, is the fact that court personnel with whom the researchers spoke considered both of the observed sessions, with their

⁵⁴ The 68 cases involved a total of 79 individual defendants.

gaps of inactivity, to be typical of the Brooklyn arraignment part's operations. The observed 2-minute arraignment was considered normal.

2. Impact of the Pre-Arraignment People's Witness Excusal on the Arraignment Process.

The research team analyzed arraignment calendars for 2 sets of 2 weeks each in which the same judges conducted Brooklyn arraignments before the inception of pre-arraignment processing and after its introduction. Judge A presided over the Brooklyn weekday arraignment session in the week beginning January 18, 1971 (before pre-arraignment) and in the week beginning March 22, 1971 (pre-arraignment). Judge B sat in weekday daytime arraignments in the week beginning February 1, 1971 (before pre-arraignment) and in the week beginning March 1, 1971 (after pre-arraignment's introduction). The before-and-after pre-arraignment weeks for each judge were compared in terms of bail conditions and case dispositions. ⁵⁷

57

It is important to note that the analysis of arraignment calendars included all Brooklyn cases arraigned during the analyzed periods. Consequently, some cases in which officers were in fact present at arraignment during the pre-arraignment periods (e.g., arraignments on Vera Summonses, cases in which pre-arraignment was "over-ridden" to have the officer present) are included in these analyses. These types of cases (e.g., Vera summonses) are also included in the arraignment periods before pre-arraignment.

a. Bail Conditions

During the pre-arraignment (March) period, Judge A's bail conditions were slightly stricter in felony cases and about the same in misdemeanor and violation cases when compared with the earlier (before pre-arraignment) January period. While in January Judge A released on recognizance or on low cash bail alternatives 42% of the felony defendants subject to bail conditions, in March his felony release rate had decreased to 38%. His misdemeanor/violation release rate increased slightly from 94% of the misdemeanor/violation defendants subject to bail conditions in January to 98% in March (table 6).

Judge B's bail conditions, on the other hand, were less restrictive for all charge categories in the pre-arraignment period than in the February period preceding pre-arraignment. In early February (before pre-arraignment) Judge B released on recognizance or on low cash bail alternatives 44% of the felony defendants and 82% of the misdemeanor/violation defendants subject to bail; in the March period he released on recognizance or cash bail 61% of the felony defendants and 95% of the misdemeanor/violation defendants subject

TABLE 6: COMPARISON OF BAIL CONDITIONS SET, JUDGE A: BEFORE PRE-ARRAIGNMENT PROCESSING (JAN. 18-22, 1971) COMPARED WITH PRE-ARRAIGNMENT PROCESSING (MAR. 22-26, 1971)

1. <u>Bail Conditions</u>	Before Pre-Arraign.			After Pre-Arraign.		
	<u>Fel</u>	<u>Misd/viol</u>	<u>Total</u>	<u>Fel</u>	<u>Misd/Viol</u>	<u>Total</u>
No bail	1	0	1	4	0	4
\$500 or less	29	7	36	24	3	27
\$501 - 1000	19	0	19	35	0	35
\$1001 - 1500	10	0	10	8	0	8
\$1501 - 2000	1	0	1	18	0	18
\$2000 and above	21	0	21	48	0	48
R.O.R.	39	103	142	67	126	193
Cash Bail Alt.	<u>21</u>	<u>13</u>	<u>34</u>	<u>16</u>	<u>9</u>	<u>25</u>
TOTAL DEFENDANTS SUBJECT TO BAIL	141	123	264	220	138	358
2. % ROR/Cash Bail	42%	94%	67%	38%	98%	61%
3. % held in \$1000 or more	23%	0	12%	34%	0	21%

to imposition of bail conditions. (Table 7).

If pre-arraignment processing has an impact on overall bail conditions, it is not at all clear what it is from these comparisons.⁵⁸ Judge A's stricter bail conditions in felony cases appears to be off-set both by his more lenient bail conditions in misdemeanor/violation cases and by Judge B's more lenient bail conditions in all offense categories in the pre-arraignment period.

58 Judges A and B were the only judges who had presided over arraignments for at least a 5-day period since the inception of pre-arraignment and for a comparable period prior to the introduction of pre-arraignment and after the District Attorney's Office's assumption of complaint room responsibilities in October 1970.

TABLE 7 : COMPARISON OF BAIL CONDITIONS SET, JUDGE B: BEFORE PRE-ARRAIGNMENT PROCESSING (FEB. 1-5, 1971) COMPARED WITH PRE-ARRAIGNMENT PROCESSING (MAR. 1-5, 1971).

1. <u>Bail Conditions</u>	Before Pre-Arraign.			After Pre-Arraign		
	<u>Fel</u>	<u>Misd/Viol</u>	<u>Total</u>	<u>Fel</u>	<u>Misd/Viol</u>	<u>Total</u>
No Bail	4	-	4	2	-	2
\$500 or less	28	25	53	8	7	15
\$501 - 1000	43	8	51	22	1	23
\$1001 - 1500	6	-	6	9	-	9
\$1501 - 2000	-	-	-	3	-	3
\$2001 and above	38	1	39	23	-	23
R.O.R.	85	152	237	104	249	145
Cash Bail Alt.	<u>8</u>	<u>2</u>	<u>10</u>	<u>3</u>	<u>1</u>	<u>4</u>
TOTAL DEFENDANTS SUBJECT TO BAIL	212	188	400	174	154	328
2. % ROR/Cash Bail	44%	82%	62%	61%	95%	77%
3. % held in \$1000 or more	20%	-	11%	20%	-	10%

The observation of the arraignment part disclosed no discernible relationship between the absence of the People's witnesses and the bail conditions. Judge X, sitting on Wednesday evening, May 12, relied in most cases on the R.O.R. report and on direct questioning of the defendant concerning his roots in the community. If the defendant's responses conformed with information in the R.O.R. report, the defendant generally was released on recognizance. Neither Judge X nor the Legal Aid attorneys referred to the absence of People's witnesses at the arraignments. When the Assistant District Attorney supported a high bail recommendation in a felony case by information he had received from the officer--e.g., the defendant in a narcotics case is a "heavy street man" (active pusher)--his bail recommendation was accepted without argument from the defense or questioning from the bench.

Judge Y, sitting at the daytime session on May 22nd, relied heavily on the Assistant District Attorney's bail recommendations and appeared to pay little attention to the ROR report or to Legal Aid's presentations on behalf of the defendant. In at least 5 cases he interrupted the Legal Aid attorney in the midst of his presentation to announce his bail decision. In one case he advised the Legal Aid attorney to "stop giving me these sad stories."

In none of the cases arraigned by Judge Y did the absence of the People's witnesses have any apparent bearing on the bail decision. In the relatively few cases in which he granted release on recognizance, the presence of the defendant's family in the courtroom seemed determinative and he released the defendant to his family's custody.

Judge Z, sitting at the daytime session on May 26, permitted opposing counsel considerable time in their bail presentations, took note of favorable R.O.R. reports and appeared to give weight to the presence in court of a family member of the defendant in deciding whether to release on recognizance or on low cash bail. The absence of the People's witnesses had no discernible bearing on his bail decisions.

b. Case Dispositions At Arraignment

Excluding cases in which no complaints were ordered, Judge A arraigned a total of 372 defendants in the January period (before pre-arraignment) and 475 defendants in March. Of the January arraignments, 87 (23%) were disposed of by guilty plea, complaint withdrawal or dismissal on the motion of the Assistant District Attorney; of the March arraignments, 70 (15%) were disposed of. This decrease in arraignment dispositions between the two periods occurred almost entirely in felony matters, with felony dispositions in cases in which complaints were prepared dropping from 16% of the January felony arraignments to 1% of the March felony arraignments (table 8).

Table 8: COMPARISON OF ARRAIGNMENT PART DISPOSITIONS EXCLUDING CASES IN WHICH NO COMPLAINT WAS ORDERED, JUDGE A: BEFORE PRE-ARRAIGNMENT PROCESSING (JAN. 18-22, 1971) COMPARED WITH PRE-ARRAIGNMENT PROCESSING (MAR. 22-26, 1971).

	<u>Before Pre-Arraign.</u>			<u>After Pre-Arraign.</u>		
	<u>Fel.</u>	<u>Misd/Viol.</u>	<u>Total</u>	<u>Fel</u>	<u>Misd/Viol</u>	<u>Total</u>
Total Defendants						
<u>Arraigned on Complaints</u>	159	213	372	231	244	475
<u>Dispositions</u>						
Guilty Plea	12	18	30	2	36	38
W/drawn	1	14	15	0	12	12
Dis. A.D.A.	13	29	42	1	19	20
TOTAL DISPOSITIONS	26	61	87	3	67	70
% DISPOSED	16%	29%	23%	01%	28%	15%

Judge B's dispositions, on the other hand, remained fairly constant in the two compared periods. Excluding cases in which no complaints were ordered, Judge B arraigned a total of 517 defendants in the February period (before pre-arraignment) and 431 defendants in March. Of the February arraignments, 75 (15%) were disposed of; of the March arraignments, 67 (16%) were disposed of (table 9).

TABLE 9 : COMPARISON OF ARRAIGNMENT PART DISPOSITIONS EXCLUDING CASES IN WHICH NO COMPLAINT WAS ORDERED, JUDGE B: BEFORE PRE-ARRAIGNMENT PROCESSING (FEB. 2-5, 1971) COMPARED WITH PRE-ARRAIGNMENT PROCESSING (MAR. 1-5, 1971)

	<u>Before Pre-Arraign.</u>			<u>After Pre-Arraign.</u>		
	<u>Fel.</u>	<u>Misd/Viol</u>	<u>Total</u>	<u>Fel</u>	<u>Misd/Viol</u>	<u>Total</u>
<u>Total defendants arraigned on complaints</u>	222	295	517	181	250	431
<u>Dispositions</u>						
Guilty plea	4	63	67	1	52	53
W/drawn	--	3	3	1	6	7
Dism. A.D.A.	<u>2</u>	<u>3</u>	<u>5</u>	<u>0</u>	<u>7</u>	<u>7</u>
TOTAL DISPOSITIONS	6	69	75	2	65	67
% DISPOSED	3%	23%	15%	1%	26%	16%

As in the case of bail conditions, if pre-arraignment processing has an impact on the arraignment part's disposition rate, it is not at all clear what it is. Judge A's felony disposition rate dropped notably in the pre-arraignment period; Judge B's felony disposition rate was comparatively low both before and after pre-arraignment and his misdemeanor/violation disposition rate was higher during the pre-arraign-

ment period than in the preceding period.

The observation study revealed only two instances in which the activity before the bench indicated that the absence of the People's witnesses at the arraignment might have had some impact on the possible disposition of the case.⁵⁹ In one case on May 26th, the officer's absence was alluded to by the Legal Aid attorney in the following terms: "if the officer were here he could testify to this (that no marijuana was found in the possession of one of the codefendants, all charged with possession)." The reason for the statement could not be determined, nor could it be determined what might have occurred in the case had the officer been present and had so testified.

In one other case, apparently a cross-complaint, some discussion occurred over why the arresting officer, who was excused from the arraignment, had signed one of the complaints. The Assistant District Attorney was

⁵⁹ The observation study, of course, could not account for instances, if any, in which the parties did not engage in disposition discussions at all because they knew the officer's absence would render the discussions fruitless.

unable to answer the question in the officer's absence. Again, it is unclear whether the officer's presence would have led to an early disposition of the case.

c. "343" Cases.

The number of cases in which no complaints are ordered ("343" cases) does not appear to be influenced by the introduction of pre-arraignment processing. During the week of February 2-5, 1971 (before pre-arraignment), 40 cases (7% of the total arraignment caseload) were "343"d, 5 of them felonies. During the week of March 1-5, 1971 (pre-arraignment), 62 cases (13% of the total caseload) were "343"d, 9 of them felonies.⁶⁰

60 The compared periods coincide with the periods Judge B sat on the bench.

During the week of January 18-22, 1971 (before pre-arraignment), 75 cases (17% of the total caseload) were "343"d, none of them felonies. During the period of March 22-26, 1971 (pre-arraignment)⁶¹ (8% of the arraignment caseload) or 62 (12% of the caseload)⁶² cases were "343"d.

61 The two periods compared here coincide with the periods Judge A sat at arraignment.

62 On March 19, 1971, prior to Judge A's pre-arraignment period, "343" cases were ordered by the Appellate Divisions to be disposed of in the complaint room and not at the arraignment part, see N.Y.C. Police Dept., T.O.P.-86 (Mar. 19, 1971). In Judge B's pre-arraignment period, the week of March 22nd, however, 43 "343" entries, none of them felonies, appeared on the arraignment part's completed calendar. In this period, the pre-arraignment facility kept records on what its personnel believed to be cases "343"d in the complaint room; 19 in all, none of them felonies. The research team could not determine whether the 43 "343" entries on the court calendars included the 19 "343" cases recorded by pre-arraignment.

F. Post-Arraignment Notifications

Following the arraignment, police personnel assigned to the pre-arraignment facility notify the arresting officer by teletype⁶³ and the civilian complainant by mailed subpoena of the next required court appearance. If the case was disposed of at arraignment, the arresting officer is advised of this by teletype. Civilian complainants are not notified of arraignment dispositions.

While entries on completed arraignment part calendars are not checked--to confirm the adjourned date information recorded by the pre-arraignment processing officer at the arraignment--before notifying the witnesses, the research team found very few discrepancies between the two.⁶⁴

63 A copy is attached, Appendix C.

64 The researchers checked against court calendars the adjournment information transmitted by teletype in 556 cases. In only 2 of these was there a serious discrepancy. In one, the teletype message listed the case as "343"d at arraignment; the court calendar listed the case as adjourned. In the other, the teletype notification listed the adjourned date as "9/10"; the court calendar's entry for the adjournment was "8/10".

The research team found the order in which notifications are made to be confusing, however. For example, teletype notifications to police officers concerning cases arraigned on June 2, 1971 were made for some cases on June 3 and for others on June 6, while teletype notifications for June 3 arraignments were made in some cases on June 4, and in others on June 5 and June 7. No patterns were found among the cases in which notifications were made on days other than the day after the arraignment.

After considerable discussion with the police officers making the notifications, the research team members concluded that the order in which the notifications are made does not adequately ensure against the possibility that some witnesses may not be notified.

G. Time Savings to the People's Witnesses
Resultant From Pre-Arraignment Procedures

1. Time Savings Per Case

For purposes of this study, the time savings to the People's witnesses were computed, for all but the overnight holdover cases,⁶⁵ as the difference between the time the witnesses are excused at the complaint room and the time the arraignment takes place. The average saving for the 7-day period, May 6 through May 12, was 3 hours and 18 minutes per case. (table 10).

Though case volume was heavier in the daytime than in the evening session of pre-arraignment, time savings to People's witnesses over the 7-day period did not differ markedly between the pre-arraignment sessions. Daytime pre-arraignment arrivals were saved an average of 3 hours and 29 minutes per case; evening savings, excluding holdover cases, averaged to 2 hours and 59 minutes per case.

While the researchers were able to identify from pre-arraignment records which of the pre-arraigned cases involved civilian complainants and witnesses, they were unable to determine from available records whether these civilians had appeared at the complaint room,⁶⁶ and conse-

65 see pp. 63,64 infra.

66 Complaints in cases involving civilian complainants may, in certain circumstances, be drawn without the presence of the civilian on short affidavits, N.Y.C. Crim. Ct. Act § 55, or on "Tennyson" affidavits, People v. Tennyson, 19 N.Y. 2d 573 (1967)

TABLE 10 : PEOPLE'S WITNESS TIME SAVINGS RESULTING FROM THE PRE-ARRAIGNMENT PROCESS, EXCLUDING HOLD-OVER CASES: MAY 6 THROUGH MAY 12, 1971

<u>Date</u>	<u>Total Cases Pre-Arraigned</u>	<u>Total Reliable Entries</u>	<u>Total Time Saving Minutes*</u>	<u>Average Time Saving Hours*</u>
Th 5/6 am	72	70	13,607	3 hrs 14 min
pm	35	29	4,605	2 39
Fr 5/7 am	49	45	8,846	3 hrs 17 min
pm	31	26	4,881	3 08
Sa 5/8 am	60	60	11,337	3 hrs 09 min
pm	15	15	1,946	2 10
Su 5/9 am	52	46	6,934	2 hrs 29 min
pm	13	13	1,659	2 08
Mo 5/10 am	47	44	9,732	3 hrs 41 min
pm	23	22	3,454	2 37
Tu 5/11 am	57	53	11,166	3 hrs 31 min
pm	31	31	6,831	3 40
We 5/12 am	49	47	14,662	5 hrs 12 min
pm	<u>30</u>	<u>26</u>	<u>5,577</u>	<u>3 34</u>
TOTAL	564	527	105,237	3 hrs 18 min

* Computed on the basis of total reliable entries

quently, could not arrive at a computation of civilian time savings. Additionally, in cases involving more than one arresting officer -- which the preliminary data analysis in April ⁶⁷ revealed to be an infrequent occurrence -- the time savings, recorded on a case basis, do not reflect the time savings to the additional police officer.

2. The Holdover Case: A Special Consideration

Prior to the introduction of pre-arraignment processing, a case which had undergone some stages of processing in the court building during the evening arraignment session might be turned away because its arraignment could not be completed by the end of the session, 1:00 a.m. When this occurred the officer withdrew his prisoner from the building and lodged him in a police stationhouse. The officer went off-duty and then returned with his prisoner the following morning to continue the case processing and arraignment. If a civilian complainant were involved, he was required to return the following morning with the officer and complete the processing through the arraignment.

With the establishment of the pre-arraignment facility, the holdover procedure as it applies to the defendant did not change. Pre-arraignment did, however, change the holdover situation as it affects the police officer and

civilian. Although the case might not be arraigned during the evening session, excusing the People's witnesses at the complaint room stage relieves them of returning with the case the following morning. The holdover prisoners are still lodged in a Police Department stationhouse overnight, but their transportation and custody is no longer the responsibility of the arresting officer.

During the 7-day period, May 6 through May 12, 1971, a total of 54 (9%) of the 618 pre-arraigned cases were holdovers. The research team computed the time savings to the People's witnesses resulting from pre-arraignment processing in each holdover case as the difference between the time the witnesses were excused at the complaint room in the evening and the time of the arraignment on the next day, minus 7 hours during that interval in which the officer would routinely be off-duty. On the basis of this calculation, the average time saving for the holdover cases during the 7 days was 6 hours, 42 minutes per case.

3. Net Saving of Police Man-hours

To effect pre-arraignment time savings to arresting officers, the Police Department has committed a total of 50 police officers (or 2000 man-hours per 7-day period) to the operation of the pre-arraignment facility --

officers who would not otherwise be committed to duty at the court building. These include one lieutenant, 5 sergeants, 41 patrolmen and 3 Transit Police patrolmen.

In computing the net time savings to the Police Department resulting from the Brooklyn pre-arraignment operation, the research team subtracted the man-hours per week committed to the facility's operation from the total man-hour savings (table 11).

TABLE 11 : COMPUTATION OF NET POLICE MAN-HOUR SAVINGS RESULTING FROM THE BROOKLYN PRE-ARRAIGNMENT OPERATION FOR THE 7-DAY PERIOD: MAY 6 - MAY 12, 1971.

<u>Non-Holdovers</u>	<u>Total Savings</u>
527 reliable entries	105,237 minutes
37 incomplete entries estimated at 199 minutes each *	<u>7,363</u> minutes
 <u>Holdovers</u>	
51 reliable entries	20,531 minutes
3 incomplete entries estimated at 403 minutes each **	<u>1,209</u> minutes
Total Gross Savings, Minutes	134,340 minutes
Total Gross Savings, Hours	2,239 hours
Police Man-hours Committed	
50 officers at 40 hours each	2,000 hours
Total Net Savings, Hours	239 hours

* Non-holdover cases in which record entries were incomplete were each assigned as an estimated saving the average per-case saving for the reliable non-holdover entries.

** Holdover cases in which record entries were incomplete were each assigned as an estimated saving the average per-case saving for the reliable holdover entries.

On the basis of the foregoing calculations, the net man-hour savings for the period studied, a total of 239 man-hours in a 7-day period, average at a net time saving per case of 23 minutes.⁶⁸

68

A study conducted by the Planning Division of the Police Department recorded a total of 12,001 arresting officers processed through the Brooklyn facility during its first 4 months, with a total net value in terms of police time-savings of \$205,274.20.

The present study did not assign cost savings to the net time savings it discovered, but it is apparent from the study's findings that they would be considerably less than the weekly average of the total net value found by the Planning Division study.

The two studies are not necessarily in conflict, however. Net man-hour savings bear a direct relationship to the arrest volume processed each week, since the manpower committed to operate the facility is constant. Since late April there has been a noticeable decrease in the weekly arrest volume processed through the Brooklyn facility, a fact which would not have been readily apparent in the Planning Division's 4-month study. In February and March the facility processed an average of 750 cases each 7-day period. In April this average had slipped to 713 cases per 7-day period. In May the 7-day average caseload had decreased to 628 and in June to 611.

The present study, conducted in May, recorded a total of 618 cases processed in a 7-day period, a case volume which appears to be representative of the volume of the facility since May. The researchers were unable to determine why the arrest volume had decreased by almost 150 cases per week since mid-spring.

4. The Time Saving in Perspective

The time savings to the People's witnesses resulting from pre-arraignment processing cannot be viewed solely within the pre-arraignment setting. A saving of a few hours at the arraignment stage would hardly be beneficial to the People's witnesses if the cost of effecting that saving were to be additional court appearances, beyond appearances otherwise required of the witnesses, in the post-arraignment processing of the case.

While the pre-arraignment procedure has had no discernible impact on dispositions at the arraignment and, in at least one Brooklyn court part, 1B2, no discernible impact on dispositions at post-arraignment appearances,⁶⁹ in an unknown number of cases at least one additional court appearance by civilian complainants has been the result of pre-arraignment processing.

69 In the 13 weeks between February 16 and May 21, 1971, Part 1B2 disposed of 1904 cases, 35% of all cases appearing on its calendars. At the initial Part 1B2 appearance after the arraignment, 29% (511) of the case appearances were disposed of during the same period, Appearance Control Project, Brooklyn Operations: Weekly Statistical Summary, Week #13, May 21, 1971.

Since the inception of pre-arraignment processing, the Legal Aid Society has refused to stipulate at the arraignment the testimony of the complainant in any pre-arraigned case. Consequently, in cases in which the complainant's testimony would rarely be disputed,⁷⁰ the absence of stipulation at the arraignment results in at least one further court appearance by the complainant.

While the frequency of Legal Aid stipulations at the arraignment of complainant testimony prior to pre-arraignment processing could not be determined by the study group, such stipulations were made in some number of cases weekly .

70 Larceny-related offenses, in which the complainant is the owner of the stolen property, are the cases in which most frequently the complainant's limited testimony will not be disputed. In such offenses, the owner's testimony is generally limited to two things: that he owns the property in question and that he did not give the defendant authorization or permission to possess it.

IV. SUMMARY OF MAJOR FINDINGS AND CONCLUSIONS

A. On the Time Lapse Between Stationhouse Booking and Arrival at the Pre-Arraignment Facility.

The research team found:

1. THAT one-third of the prisoners arraigned between 8 a.m. and 4 p.m. were arrested and booked prior to midnight of the night before and spent a minimum of 8 hours in a police stationhouse cell before transport to the daytime pre-arraignment and arraignment session;

2. THAT available data were insufficient to permit findings as to why the transport of certain prisoners from the stationhouse to the court building is delayed, but that two contributing factors appear to be:

a. that prisoners are lodged overnight in the stationhouse of arrest; are thus scattered throughout the borough; and are consequently more difficult to transport expeditiously than were they to be lodged in one or two central locations; and

b. that officers making arrests on evening duty tours are most often required to take six to eight hours off between the booking and officer's return to duty, a fact which can result in delaying the removal of the prisoner from the stationhouse;

3. THAT the foregoing conditions do not appear to have been caused by the inception of a pre-

arraignment processing facility, and presumably existed to the same degree before its inception.

B. On the Conditions in Which Prisoners are Held Awaiting Arraignment.

The research team found:

1. THAT the conditions described in the following paragraphs have been in existence for some 18 months prior to the introduction of pre-arraignment processing and that the pre-arraignment processing procedure has had no discernible impact, beneficial or adverse, on the conditions to which prisoners are subjected;

2. THAT the environment in which prisoners are held in the basement holding cage area is inconsistent with the minimal standards of custody and service which should be accorded to a detained person, in that:

a. readily accessible toilet facilities are non-existent and access to remote facilities is restricted;

b. routine custodial attention to the area in which prisoners are held is inadequate;

c. youthful prisoners are not routinely segregated from adults;

d. feeding of prisoners is limited to one time each day and restricted to those persons detained at the time of the feeding;

e. male and female detention cages have no opaque partition separating them and no female custodian is permanently assigned or immediately available to the basement cage area; and

f. the average prisoner spends enough time in the foregoing conditions to require their prompt amelioration;

3. THAT the wire holding cage as a full-time detention facility is not conducive to the effective security of large numbers of prisoners, and, as a result of this condition, impedes for security reasons the introduction of better means of servicing detained persons;

4. THAT the conditions described in the preceding paragraphs create an unhygienic, discomfoting, poorly-secured (and thereby potentially dangerous) and unnecessarily demoralizing atmosphere in which Police Department personnel must work for 8-hour periods;

5. THAT the environment in which prisoners are held in the first floor arraignment pens is unnecessarily discomfoting to detained persons and to their Department of Correction custodians.

C. On Fingerprint Transmissions

The research team found:

1. THAT the introduction of video print and Datafax transmission equipment for transporting fingerprints and yellow sheets between the Brooklyn Criminal Court

and the Bureau of Identification has had an insignificant impact on transmission times, in that in 70% of the observed transmissions equipment malfunction required use of the messenger-transmission system which the equipment was designed to replace;

2. THAT the major delay between transmission of fingerprints and receipt of yellowsheets is not attributable to the manner of the transmission but rather to the record-search procedure at the Bureau of Criminal Identification.

3. THAT the average case is delayed roughly 3 hours awaiting arrival of the defendant's yellow sheet.

D. On the Operation of the Complaint Room

The research team found:

1. THAT at peak periods during the day, the time spent by the arresting officer awaiting complaint preparation ranges between one-and-one-half hours and four-and-one-half hours;

2. THAT the amount of delay at the complaint room stage is directly translatable to an increase both in the amount of time the People's witnesses are engaged in the pre-arraignment process and in the amount of time the defendant spends in pre-arraignment detention.

3. THAT recent renovation of the complaint room into semi-private interview cubicles, while an improvement

over the previous physical lay-out, has resulted in under-utilization of both Assistant District Attorneys and complaint-typist resources.

4. THAT the staffing of the complaint room by Assistant District Attorneys and typists is at times excessive and at other times insufficient.

E. On The Impact of Pre-Arraignment Processing On the Arraignment Proceeding:

The research team found:

1. THAT the pre-arraignment excusal of the People's witnesses does not have a discernible impact

on the setting of bail conditions, in that:

a. While one judge's

bail conditions were found to be slightly more restrictive after the pre-arraignment procedure was introduced than before, another judge's bail conditions were less restrictive after pre-arraignment than before.

b. The factors influencing the

bail decision are difficult to identify and vary from judge to judge, but include the judge's disposition and attitude and whether the defendant has a family member present to whose custody he might be released.

c. The average arraignment con-

sumes no more than 3 minutes, and the inquiry and discussion concerning the bail conditions is abbreviated.

2. THAT the pre-arraignment excusal of the People's witnesses does not have a clear relationship to the rate of case disposition at arraignment, in that:

a. while one judge's felony dis-

positions decreased sharply after the pre-arraignment procedure was in effect, his misdemeanor dispositions remained at the same rate as before pre-arraignment

and another judge's dispositions remained relatively the same after pre-arraignment as before.

b. While the number of cases "343"d during one judge's sitting decreased after pre-arraignment was introduced compared with his earlier sitting, they increased after pre-arraignment's introduction for another judge compared with his earlier sitting.

F. On Post-Arraignment Notifications

The research team found:

1. THAT very few inaccuracies concerning proper adjourned dates and parts exist in the post-arraignment notifications sent to People's witnesses excused from the arraignment.

2. BUT THAT the order in which notifications are made is confusing and does not adequately ensure against the possibility that some witnesses may not be notified.

G. On The Time Savings to the People's Witnesses Resulting From Pre-Arraignment Processing

The research team has found:

1. THAT the average time saving to police and civilian witnesses in cases which were not held-over from the evening to the daytime arraignment session is 3 hours, 18 minutes per case;

2. THAT, the average time saving to police and civilian witnesses in cases held overnight

is 6 hours, 42 minutes per case;

3. THAT, in light of the police man-hours committed to the operation of the pre-arraignment facility, the total net saving in police man-hours was 239 for the 7-day period studied--a net time-saving of 23 minutes per case--and that the period studied is representative of the weekly arrest volume processed through the facility in the months of May and June, though not of the heavier volume processed through the facility prior to mid-spring.

H. Summation

The pre-arraignment processing procedure does not appear to have much of an impact, beneficial or adverse, on the arraignment proceeding. Of equal importance, given the decline in arrest volume processed through the facility since May, the net police man-hour savings found by the researchers indicate that it is at present having an insubstantial impact on police time savings as well. While the researchers could not identify how much of a time saving pre-arraignment processing is effecting for civilians, the lack of stipulations of testimony at the arraignment is likely to limit the overall savings of court time to civilians.

While finding the pre-arraignment excusal of witnesses to be of limited consequence to all concerned, the researchers also found the arraignment proceeding to be for the most part a brief, bail-setting operation upon which the absence of the People's witnesses had no discernible impact. Case dispositions

at the arraignment were no more frequent before the pre-arraignment procedure was introduced than with it. The arraignment courtroom averages little more than 3 hours bench-time per 7-hour court-session, with large gaps of inactivity during its court day and with the average case receiving fewer than 3 minutes' consideration.

The introduction of a pre-arraignment processing facility itself does not appear to have had much of an impact, beneficial or adverse, on the booking-through-arraignment process in general. Its major contribution may ironically lie in focusing attention on a series of long-existing practices and procedures in dire need of evaluation and overhaul.

The prisoner arrested in Brooklyn between 4 p.m. and midnight is not arraigned on the average until 15 hours and 12 minutes later; the prisoner arrested between midnight and 8 a.m. is detained for an average of 14 hours, 27 minutes before his arraignment; the prisoner arrested between 8 a.m. and 4 p.m. is arraigned in the average case 10 hours, 45 minutes later.⁷¹ Not only must the booking-through-arraignment process be made more rational; the prisoner must be brought before the arraigning magistrate far more quickly than at present.

71 Arrest-to-arraignment times were compiled from 158 reliable entries for arrests made on Monday, May 10, 1971, and Tuesday, May 11, 1971.

V. RECOMMENDATIONS

A. Remedying the Conditions In Which Prisoners Are Held Awaiting Arraignment at the Brooklyn Criminal Court.

During the course of the present study, officials of the Police Department and the Department of Correction and the author met to discuss a number of immediate and long-term measures aimed at improving conditions for prisoners awaiting arraignment. Among the measures discussed are the following:

(1) A "priority request" to be sent to the Department of Public Works to convert the present cage area into two holding pens, equipped with toilets and secured by bars, for male prisoners and to construct a similarly-equipped holding pen for females in the room adjoining the cage area;⁷²

72 The major limitation on expanding detention facilities on the basement level is the lack of available floor space. Ironically, almost all of the available basement floor space has been consumed by the installation of central equipment for the eventual air-conditioning of courtrooms.

(2) As a temporary measure, a plan whereby male prisoners who will be held for more than 30 minutes would be lodged in a toilet-equipped pen on the sub-basement level. Custody of prisoners while in this pen would be maintained by the Police Department. To free this pen for pre-arraignment detention the Department of Correction would hold adolescent prisoners for post-arraignment appearances in a fifth-floor holding pen. The plan is contingent upon the Commissioner of Correction's approval and his supplying one additional "post" to man the 5th floor pen. Female prisoners would be temporarily lodged in one of the arraignment holding pens, under female custodial supervision:

The holding cages would be used only for short-term detention during photographing, and only until such time as they are replaced by holding pens;

(3) The Department of Correction has begun supplying prison labor for nightly clean-ups of the basement cage area and the Police Department has agreed to supply custodial labor for a thorough once-a-week wall and floor cleaning of the area;

(4) All prisoners would be supplied a sandwich and liquid by the Department of Correction

through its Brooklyn House of Detention facility at the time of arrival at the court building.

At this writing, the Department of Public Works has surveyed the cage area and a memorandum proposing temporary prisoner relocation has been submitted to the Commissioner of Correction by the Vera Liaison Unit of the Police Department Planning Bureau, but none of the other measures has been implemented and the Commissioner of Correction has not yet responded to the prisoner relocation proposal.

The author strongly urges that the Police Department's Criminal Justice Bureau pursue these plans with the Departments of Public Works and Correction, that it implement provisions for supplying Police Department custodial labor for weekly cleanings of the cage area, and that it urge that amelioration of the detention conditions be undertaken without further delay and irrespective of the other recommendations made herein.

In addition, it is recommended that the Department of Public Works be requested to survey the arraignment part pens to determine the feasibility of expanding the male detention cell by approximately 30 square feet. Department of Correction personnel report that the expansion is feasible and is necessary to relieve the crowded conditions.

B. Evaluating the Overnight-Lodging-of-Prisoners Arrangement Presently Employed in Brooklyn Arrests

It is recommended that the Criminal Justice Bureau review the manner in which prisoners are lodged overnight in precinct stationhouses and consider as alternatives:

(1) in the long term, construction of a central, borough-wide overnight detention facility in close proximity to the court building in which the prisoners will be arraigned, and

(2) in the interim, a method of overnight lodging wherein, regardless of the locations of arrest, prisoners would be lodged in the stationhouses closest to the court building and would be detained in remote locations only when all cells proximate to the court building have been filled.

C. Reviewing the Manner in Which the Present Pre-Arraignment Facility is Administered:

While the Brooklyn pre-arraignment facility is at present of limited consequence to all concerned, to simply replace it with the system as it existed before the introduction of this procedure would result in no discernible advantage and the author

does not recommend such a course of action.

It is recommended that the Criminal Justice Bureau continue the study of the Brooklyn arraignment process begun here and that it urge other agencies to do likewise with the goal of developing a more meaningful and just arraignment proceeding.

In the interim, it is recommended that the operations of the present Brooklyn pre-arraignment facility be carefully reviewed, by the Criminal Justice Bureau, with specific attention focused on the following problem areas.

1. Record-keeping by the facility is inadequate and renders continuing evaluation difficult. Even after record-keeping procedures were tightened to permit the present study, a considerable number of entries were still not made or were clearly inaccurate.

2. The paper-flow through the facility-- which at present acts as the sole control over the movement of prisoners from the basement cages to their arraignment--needs tightening-up. The time difference of 82 minutes per case between photographing of the defendant and docketing of the complaint is an example

of delay in the arraignment of the prisoner attributable to slow movement of paper through the facility.

3. The operation of the complaint room requires further evaluation, and procedures for greater productivity clearly need to be developed by the Kings County District Attorney's Office.

4. The malfunction frequency of the electronic fingerprint and data transmission equipment suggests the need for a critical review as to whether the vendors of the equipment have satisfactorily performed their obligations in developing the prototype and as to whether the users of the equipment are adequately trained for their responsibilities.

5. The manner in which post-arraignment notifications are made is disorderly and confusing.

6. Tighter supervision over arresting officers while undergoing pre-arraignment processing needs to be exercised. The difference between the arrival time at the basement holding area and the arrival of the officer at the complaint room--an average of 34 minutes per case--seems excessive in light of the amount of processing the officer undergoes between these points. The absence of officers when called in the complaint room should be individually investigated by the superior

officer on duty to ensure that all absences are justified.

7. The fact that the Legal Aid Society at present will not stipulate the testimony of any complainant excused through pre-arraignment processing from the arraignment leads in some unknown number of cases to at least one additional court appearance for the complainant. The Criminal Justice Bureau and the District Attorney's Office are urged to explore this situation with the Legal Aid Society, to determine whether if certain cases involving civilian complainants were not pre-arraigned the Society might, in keeping with its professional responsibilities to its clients, be willing to stipulate certain testimony at the arraignment.

8. The fact that the arraignment court does not operate a full 24 hours each day may contribute significantly to the delay in arraigning certain prisoners, and an additional nighttime arraignment session in addition to or, if necessary, instead of the opening of an additional daytime arraignment part, should be considered among the possible ways for reducing pre-arraignment detention time.

PRE-ARRAIGNMENT/ARRAIGNMENT REPORT

Pre-Arraignment Case

5-1012

Summons Case

MISC.333(Rev.12-70)

(Print All Replies)

DEFENDANTS - List additional defendants under details.

Surname	First Name	Address	Age	Telephone No.
1. AGOLA	LUIGI	298 TROTMAN ST BRKN NY	38	NONE
2.				B 85V 825
3.				
4.				

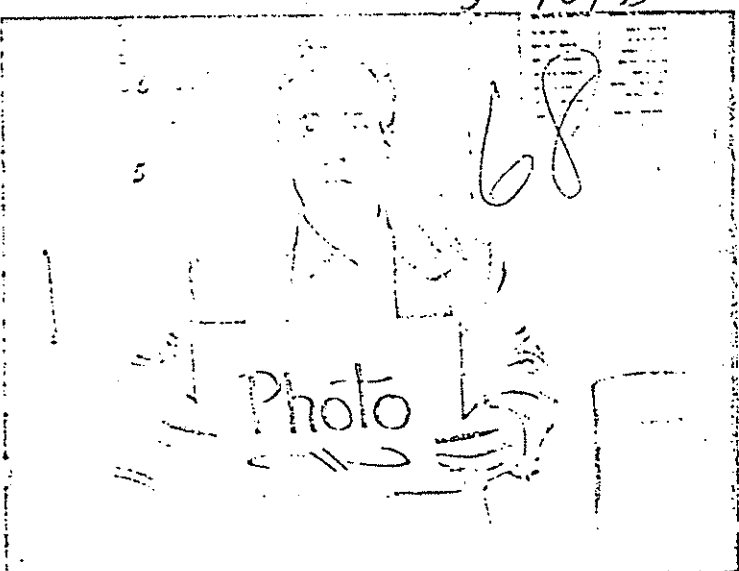
Pct. of Arrest	Date of Arr.	Pct. Arr. No.	Summons Cont.No.	Charge: Law & Section	Title of Section
83%	4-21-71	1060	-	120.10 PL 265.15 PL	ASSAULT 1st D POSS OF LOOSE FIREARM

COMPLAINANT: Surname	First Name	Address	Apt.No.	Telephone No.
PEOPLE ATTORNEY GEN. CO. OF RISE				
Business Name and Address				Telephone No.

WITNESS: Surname	First Name	Address	Apt.No.	Telephone No.
Business Name and Address				Telephone No.

WITNESS: Surname	First Name	Address	Apt. No.	Telephone No.
Business Name and Address				Telephone No.

WITNESS: Surname	First Name	Address	Apt. No.	Telephone No.
Business Name and Address				Telephone No.



Shield	Comd.	Comd. Telephone No.
26946	85th	H1 3-1200

exceptions to availability (vacation, court app., etc.)

Shield	Comd.	Comd. Telephone No.
12371	83rd	H1 3-1200

exceptions to availability (vacation, court app., etc.)

by:	Address	Telephone No.

appear in court: Scheduled Tour on Date Selected
4x12

SICK REPORT

IN PRE-ARRAIGNMENT CASES ONLY

PROCESSING OFFICERS	Time Arraignment Completed	Shield
	1450 MAY 1 21971	1630

Time of Arrest	ARRAIGNMENT DISPOSITION
4-12-71	1. Adjourned to Court Part <u>API</u> on (date) <u>5-17-71</u>
2145	2. Final Disposition (specify) <u>3500</u>
Time of Booking	NOTIFICATIONS REQUIRED FOR ADJOURNED CASES
7:30 4-25-71	1. Arresting Officer: () Personally Notified - () Command Notified (Time & Date)
Time Arrived at Pre-Arraignment	2. Complainant: () Personally Notified - () Message Left
4 PM 1210	3. Witness: () Personally Notified - () Message Left
Completed Pre-Arraignment	4. To Be Notified on Day Tour. Entered in Notification Log ()
1312-1	Signature of Court Processing Officer: <u>efb</u> Rank <u>Officer</u> Signature <u>[Signature]</u> Shield <u>21/46</u>

Photo 1430
Docket 1445

HARRY J. DONNELLY

DETAILS OF CASE: (Check Box or Complete Entry)

	Offense	Arrest	Physical Evidence	Description of Physical Evidence:
	Witnessed By	Made By:	Seized By:	
1. Arresting Officer	1. (X)	1. (X)	1. (X)	22 CAL IVEPAR-JOURNAL REVOLVER 7 SHOT SERIAL 24902
2. Civilian Complainant	2. ()	2. ()	2. ()	
3. Other Peace Officer	3. ()	3. ()	3. ()	
4. Witness	4. ()	4. ()	4. ()	
5. Special Patrolman	5. ()	5. ()	5. ()	
6. Store Detective	6. ()	6. ()	6. ()	
7. Other (specify)	7. ()	7. ()	7. ()	

NARRATIVE OF DETAILS: Arresting/Assigned Officer will describe details of case. In General, answer the questions, WHEN, WHERE, WHO, WHAT AND WHY. Include the following information in so far as it pertains: How officer became aware of offense (Responded to Radio Run; Called by complainant; observed act; etc.) - Alleged acts of defendant(s) - How was evidence found (in whose possession, where, by whom) - Describe extent of injuries to complainant, if any. Give any statements made by the defendant REGARDLESS of whether or not you believe them to be legally admissible.

OFFICER WAS RESPONDING TO A PHONE-RUN # 4-21-71 AT APPROX. 2100 HRS TO DISTRICT MAN ST AND THE FOLLOWING OCCURRED
 A/C DETT IN THAT IN THE AREA PLACE OF OCCURANCE DEFENDENT DID HAVE IN HIS POSSESSION
 A LOADED 22 CAL # 7 SHOT SERIAL 24902 IVEPAR JOURNAL REVOLVER & DID SHOOT DET HENRIK
 # 26963 IN THE BACK, DETT. WAS TAKEN TO WYCOFF HOSPITAL WITH GUNSHOT WOUNDS

Complete Details on Additional Sheet of Paper and Attach if Necessary

Check, if Appropriate: Officer assigned to case and has no personal knowledge of Details. Requests excusal from subsequent appearances. *Gregory J. Nealy*
 Signature of Arr/Assg. Officer.

May 4, 1971

From: Commanding Officer, Brooklyn Pre-Arraignment
To: All Brooklyn Pre-Arraignment Personnel
Subject: ARREST/ARRAIGNMENT STUDY-BROOKLYN CRIMINAL COURT

1. On May 10, 1971, the Director of the Appearance Control Project, in cooperation with the C.C., P.E.B.S. and the Vera Liaison Office, will start a one week time study of the Brooklyn Arrest/Arraignment process. The purpose of this study is to: statistically identify the areas of delay.

2. In order to gather meaningful data, the records maintained in connection with Pre-Arraignment must be complete and accurate. In addition it will be the responsibility of every member of this command to insure that records under their control reflect a complete and accurate description of the processing of Brooklyn arrests through arraignment.

3. Records to be used for the purpose of gathering data:

Misc. 333

- a. Intake Log Recorder will check lower left of form to determine that A/O has entered his tour, the time of arrest, and time of booking. He will also enter the arrival time at pre-arraignment on both original and duplicate copies of the Misc. 333 and correct inconsistencies while A.C. is present.
- b. Complaint Room Log Recorder will enter the time the A.C. is excused from the complaint room in the box marked "Time Pre-Arraignment Completed." In the margin below this box will be recorded the time related court papers are presented for docketing.
- c. Court Processing Officers will record arrival time of the defendant in the IA pens in the box marked "Time of Arrival at Court." C.P.O.'s will also record the time and date of arraignment in the box marked "Time Arraignment Completed." A notation "H/O" will be made in this box for defendants arraigned in hold-over cases.
- d. Escort Docket Officer will record time defendant is photographed in left lower margin.
- e. Notification Officers prior to separating original and duplicate Misc. 333, Officer will transcribe information recorded on only one copy of the form to the second copy. (ie: Docket # from Dupl. to Orig.)

District Attorney's Complaint Room Log.

- a. Officers assigned to Complaint Room will insure that all entries are made in the Complaint Room Log, with special attention given to the accurate recording on the "In and Out" times.
- b. Complaint Room Supervisors will review all entries in both the Log and Misc. 333 prior to excusing arresting officers.

Finger Print Control Log.

- a. Log recorder will complete all entries in the Control log with special attention given to transmission and receipt times, reason for equipment malfunctions causing messenger service to be re-instituted, and re-print or re-transmission information.
- b. Pre-Arrestment Supervisor will check Control log periodically to determine that all entries are properly recorded.

Complaint Room Diary

- a. Supervisor assigned to the complaint room will record all processing delays which would reflect on the over-all processing time of a pre-arrestment case.

4. Attached to this memo is a listing of entries to be made in connection with the time study showing the entry to be made, the form or log to be used and the designation of the particular member who will be responsible for making such entry. Also attached is a sample Misc. 333 which identifies the manner in which the entries will be made

5. All Sergeants will be responsible for the personal instruction of men under their supervision.

JAMES M. WALLACE
Lieutenant in Command

pc